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LEGISLATIVE HISTORY

Public Law 86-2

S. 79

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INDEX AND SUMMARY OF S.79

Jan. 9, 1959 Senator Holland introduced S. 79 which was referred to Senate Committee on Labor and Public Welfare. Print of bill as introduced.

Rep. Haley introduced H. R. 1814 which was referred to House Committee on Interstate and Foreign Commerce. Print of bill as introduced.

Feb. 5, 1959 Senate committee ordered S. 79 reported with amendment.

Rep. Haley introduced H. R. 4194 which was referred to House Committee on Interstate and Foreign Commerce.

Feb. 6, 1959 Senate committee reported S. 79 with amendments. Senate Report 50. Print of bill and report.

Feb. 9, 1959 Senate passed S. 79 as reported.

Feb. 11, 1959 S. 79 was referred to House Committee on Interstate and Foreign Commerce. Print of bill as referred.

Feb. 19, 1959 House committee ordered S. 79 favorably reported.

Feb. 23, 1959 House committee reported S. 79 without amendment. House Report 44. Print of bill and report.

Mar. 2, 1959 S. 79 was recommitted upon request to have calendar bill print (as reported on Feb. 23) corrected. House committee reported S. 79 without amendment. House Report 88. Print of bill and report. House Report 44 and House Report 88 are identical.

Mar. 5, 1959 Rules Committee reported a resolution for consideration of S. 79. H. Res. 200, House Report 184. Print of resolution and report.

Mar. 13, 1959 House passed S. 79 without amendment.

Mar. 17, 1959 Approved: Public Law 86-2.

DIGEST OF PUBLIC LAW 86-2

COLORING OF ORANGES. Amends Sec. 402(c) of the Federal Food, Drug, and Cosmetic Act so as to permit, until September 1, 1961, the listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, and thereby permit continuance of the established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

DIGEST OF PUBLIC LAW 86-79

GENERAL GOVERNMENT MATTERS APPROPRIATION ACT, 1960. Includes appropriations for the Budget Bureau, Council of Economic Advisers, National Security Council, President's Advisory Committee on Government Organization, Emergency Fund of the President (National Defense), and Subversive Activities Control Board.

Appropriates \$125,000 to the President for allocation to executive agencies for the conduct, under the general direction of the Bureau of the Budget, of examinations and appraisals of, and the development and installation of improvements in, the organization and operations of the agencies.

Includes general provisions for departments and agencies, during the fiscal year 1960 as follows: Limits the amount which may be paid for a passenger vehicle (exclusive of busses and ambulances) to \$1,500, except for station wagons the maximum of which is \$1,950. Requires Federal employees to be U. S. citizens, with certain exceptions. Makes appropriations available for living quarters allowances for employees stationed in foreign countries. Prohibits payments to employees whose nominations the Senate has rejected. Limits the price which may be paid for the U. S. Code to \$4 per volume, and for the Lifetime Federal Digest to \$4.25 per volume. In the case of certain corporations, makes appropriations available for certain purposes, such as rent in D. C. Prohibits corporations from constructing office buildings in certain cases. Permits foreign credits to be used only when reimbursement is made to the Treasury Department. Requires departments and agencies, in connection with the submission of all requests for proposed appropriations to the Budget Bureau, to submit reports that statements of obligations furnished therewith consist of valid obligations in accord with definitions in Sec. 1311(a) of the Supplemental Appropriation Act of 1955.

86TH CONGRESS
1ST SESSION

S. 79

IN THE SENATE OF THE UNITED STATES

JANUARY 9 (legislative day, JANUARY 8), 1959

Mr. HOLLAND introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That paragraph (c) of section 402 of the Federal Food,
4 Drug, and Cosmetic Act is amended by repealing the second
5 and third provisos to such paragraph, and by inserting before
6 the period at the end of such paragraph a new proviso as

1 follows: "*Provided further*, That, without regard to the re-
2 quirements of sections 406 (b) and 701 (e), the Secretary
3 shall promptly establish, and may from time to time amend,
4 regulations (1) prescribing the conditions (including quanti-
5 tative tolerance limitations) under which the coal-tar color
6 known as Citrus Red No. 2 (more particularly to be defined
7 in such regulations) may be safely used in coloring the skins
8 of oranges which are not intended or used for processing
9 (or, if so used, are oranges designated in the trade as pack-
10 ing house elimination), and which meet minimum maturity
11 standards established by or under the laws of the States in
12 which the oranges are grown, (2) providing for separately
13 listing such color solely for such use on such oranges, and
14 (3) providing for the certification of batches of such color,
15 with or without harmless diluents, for such restricted use;
16 and such oranges, if colored prior to the enactment by the
17 Congress (subsequent to the date of enactment of this pro-
18 viso) of general legislation for the listing and certification of
19 food color additives under safe tolerances, in conformity
20 with this proviso and such regulations, with Citrus Red No. 2
21 from a batch certified in accordance with such regulations,
22 shall not be deemed to be adulterated within the meaning
23 of this paragraph."

24 SEC. 2. This Act shall take effect upon the date of enact-
25 ment, except that the repeal of the second proviso of section

1 - 402 (c) of the Federal Food, Drug, and Cosmetic Act shall
2 not become effective with respect to oranges the skins of
3 which are colored before March 1, 1959, in accordance with
4 such proviso.

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

By Mr. HOLLAND

JANUARY 9 (legislative day, JANUARY 8), 1959

Read twice and referred to the Committee on Labor and Public Welfare

86TH CONGRESS
1ST SESSION

H. R. 1814

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 1959

Mr. HALEY introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce.

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That paragraph (c) of section 402 of the Federal Food,
4 Drug, and Cosmetic Act is amended by repealing the second
5 and third provisos to such paragraph, and by inserting before
6 the period at the end of such paragraph a new proviso as

1 follows: "*Provided further*, That, without regard to the
2 requirements of sections 406 (b) and 701 (e), the Secretary
3 shall promptly establish, and may from time to time amend,
4 regulations (1) prescribing the conditions (including
5 quantitative tolerance limitations) under which the coal-tar
6 color known as Citrus Red No. 2 (more particularly to be
7 defined in such regulations) may be safely used in coloring
8 the skins of oranges which are not intended or used for
9 processing (or, if so used, are oranges designated in the
10 trade as packinghouse elimination), and which meet mini-
11 mum maturity standards established by or under the laws
12 of the States in which the oranges are grown, (2) providing
13 for separately listing such color solely for such use on such
14 oranges, and (3) providing for the certification of batches
15 of such color, with or without harmless diluents, for such
16 restricted use; and such oranges, if colored prior to the
17 enactment by the Congress (subsequent to the date of enact-
18 ment of this proviso) of general legislation for the listing
19 and certification of food color additives under safe tolerances,
20 in conformity with this proviso and such regulations, with
21 Citrus Red No. 2 from a batch certified in accordance with
22 such regulations, shall not be deemed to be adulterated
23 within the meaning of this paragraph".

24 SEC. 2. This Act shall take effect upon the date of
25 enactment, except that the repeal of the second proviso of

1 section 402 (c) of the Federal Food, Drug, and Cosmetic
2 Act shall not become effective with respect to oranges the
3 skins of which are colored before March 1, 1959, in accord-
4 ance with such proviso.

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

By Mr. HALEY

JANUARY 9, 1959

Referred to the Committee on Interstate and Foreign
Commerce

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

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For actions of February 5, 1959
86th-1st, No. 20

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HIGHLIGHTS: Senate passed housing bill. Sen. Scott commended administration farm policies.

HOUSE

1. DRAFT EXTENSION. Passed, 381 to 20, as reported H. R. 2260, to extend until July 1, 1963, the induction provisions of the Universal Military Training and Services Act. pp. 1662-90
Rejected, amendment by Rep. Wolf to extend the Act for 2 years only. pp. 1684-8
Rejected a motion by Rep. Mason to recommit the bill. p. 1689
2. INTER-AMERICAN RELATIONS. Rep. Sikes spoke in support of more cooperation between the U. S. and the Latin American countries and of the establishment of an Inter-American Bank to achieve this end. pp. 1695-6
3. BUDGET. Rep. Mack urged a balanced budget and inserted figures showing the amount of money required from each state and from cities and counties in Washington to balance the budget. pp. 1696-8
4. GOVERNMENT CONTRACTS. Both Houses received ^{from the Labor Department} a proposed bill, "To establish a Commission on Equal Job Opportunity Under Government Contracts"; to House Judiciary Committee and Senate Labor and Public Welfare Committee. pp. 1704, 1708

5. ADJOURNED until Mon., Feb. 9. p. 1703

SENATE

6. HOUSING. Passed, 60 to 28, with amendments S. 57, the housing bill.
pp. 1717-88

Rejected, 27 to 58, an amendment by Sen. Monroney which would have continued interest rates on veterans' housing loans at 4-3/4 percent instead of permitting a rise to 5-1/4 percent. pp. 1762-85

7. FARM PROGRAM. Sen. Scott commended the administration's farm policies, expressed the hope that Congress "can produce a body of agricultural legislation at this session which will eliminate the shackles on the farmer's efficiency and help him to help himself," and inserted a newspaper editorial supporting his position. p. 1789

8. EXPENDITURES. Several Senators discussed recent Federal expenditures and the responsibility for increased expenditures, and Sen. Case, S. Dak., inserted a tabular recapitulation of itemized estimates and appropriations for the first session of the 85th Congress. pp. 1723-31

9. WATERSHEDS. Received from the Budget Bureau a report on plans for works of improvement in Miss., N. C., N. Dak., and S. Dak.; to Agriculture and Forestry Committee. pp. 1707-8

Received from the Budget Bureau a report on plans for works of improvement in Tenn. and Tex.; to Public Works Committee. p. 1708

10. INFLATION. Sen. Goldwater criticized proposals for increased Federal spending as being inflationary, and inserted a magazine article, "Dollar War At Home." pp. 1713-14

11. BUDGETING. Both Houses received from the Budget Bureau a report that CCC administrative expenses have been apportioned on a basis indicating the need for a supplemental authorization for 1959.

12. FORESTRY. Sen. Case, S. Dak., was appointed to the National Forest Reservation Commission. p. 1789

13. ORANGES. The Labor and Public Welfare Committee ordered reported with amendment S. 79, to amend the Federal Food, Drug, and Cosmetic Act so as to permit the continuance of the practice of coloring oranges. p. D70

ITEMS IN APPENDIX

14. WATER RESOURCES. Sen. Johnson inserted an article discussing the efforts made by Texans to control and utilize water resources. p. A840

15. CONSERVATION. Extension of remarks of Sen. Wiley commending the conservation programs in Wis. and inserting an article praising an 11 year old constituent. p. A842

16. INFLATION. Sen. Dirksen inserted an article, "Cut Federal Spending--Inflation Can Be Licked, Experts Agree, But Congress and the Executive Must Quit Playing Politics." pp. A842-3

Rep. Abbitt inserted an article, "Federal Tax, Spending Policy Biggest Danger Facing United States." p. A849

86TH CONGRESS
1ST SESSION

H. R. 4194

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 1959

Mr. HALEY introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) the second proviso of section 402 (c) of the
4 Federal Food, Drug, and Cosmetic Act is amended by strik-
5 ing out "March 1, 1959," and inserting in lieu thereof "May
6 1, 1959,".

1 (b) The third proviso of section 402 (c) of such Act is
2 amended to read as follows: "*And provided further, That,*
3 without regard to the requirements of sections 406 (b) and
4 701 (e), the Secretary shall promptly establish, and may
5 from time to time amend, regulations (1) prescribing the
6 conditions (including quantitative tolerance limitations)
7 under which the coal-tar color known as Citrus Red No. 2
8 (more particularly to be defined in such regulations) may
9 be safely used in coloring the skins of oranges which are not
10 intended or used for processing (or, if so used, are oranges
11 designated in the trade as packinghouse elimination), and
12 which meet minimum maturity standards established by or
13 under the laws of the States in which the oranges are grown,
14 (2) providing for separately listing such color solely for
15 such use on such oranges, and (3) providing for the certifi-
16 cation of batches of such color, with or without harmless
17 diluents, for such restricted use; and such oranges, if colored
18 prior to September 1, 1961, and to the enactment by the
19 Congress (subsequent to the date of enactment of this pro-
20 viso) of general legislation for the listing and certification of
21 food color additives under safe tolerances, in conformity with
22 this proviso and such regulations, with Citrus Red No. 2
23 from a batch certified in accordance with such regulations,
24 shall not be deemed to be adulterated within the meaning
25 of this paragraph".

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

By Mr. HALEY

FEBRUARY 5, 1959

Referred to the Committee on Interstate and Foreign
Commerce

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
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Issued February 9, 1959
For actions of February 8, 1959
86th-1st, No. 21

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HIGHLIGHTS: Senate confirmed Miller nomination. Senate received from Commerce proposed area redevelopment bill. Sen. Wiley introduced and discussed bill to expand special milk program. Sen. Humphrey and others introduced and Sen. Humphrey discussed bill to establish uniform milk sanitation standards and regulations.

SENATE

1. NOMINATIONS. Confirmed the nomination of Clarence L. Miller to be Assistant Secretary of Agriculture and a member of the CCC Board of Directors. p. 1797
2. AREA REDEVELOPMENT. Received from the ^{Commerce} Department a proposed bill "To assist areas to develop and maintain stable and diversified economies by a program of financial and technical assistance"; to Banking and Currency Committee. p. 1798
3. COMMITTEE ASSIGNMENTS. Members of the Appropriations Committee were assigned to the following subcommittees: p. D74
Department of Agriculture and related agencies: Senators Russell, Hayden, Hill, Robertson, Holland, Stennis, Dodd, McGee, Young, Mundt, Dworshak, and Hruska. Senators Ellender, Johnston, and Aiken were designated ex officio members.
Interior and related agencies: Senators Hayden, Chavez, Johnson, Russell, McClellan, Kefauver, Bible, Byrd, McGee, Mundt, Young, Dworshak, and Kuchel.

Deficiencies, Supplementals, and Foreign Operations: The "Daily Digest" states this is "to be considered by entire committee."

4. TEXTILES. Received from the Rhode Island General Assembly a resolution urging the maintenance of "proper tariffs" on the imports of textiles. pp. 1798-9
5. ORANGES. The Labor and Public Welfare Committee reported with amendments S. 79, to amend the Federal Food, Drug, and Cosmetic Act so as to permit continuance of the practice of coloring oranges (S. Rept. 50). p. 1799
6. WEATHER RESEARCH. Sen. Bible urged the enactment of S. 943, to provide a program of weather modification by the Department of Interior, in cooperation with the National Science Foundation, to increase the water supply in the Colorado River drainage basin. p. 1813
7. GRAINS; SOIL BANK. Sen. Case, S. Dak., inserted a statement favoring enactment of his bill, S. 946, to provide for the use of CCC grains for soil bank payments. pp. 1813-4
8. COMMITTEE MEMBERSHIP. Passed without amendment S. 961, to increase the membership of the Joint Economic Committee from 14 to 16 members. p. 1800
9. STATEHOOD. Sen. Mansfield inserted a magazine article relating to an interview with Secretary of the Interior Seaton in which he favors statehood for Hawaii. pp. 1815-6
10. EXPENDITURES. Sen. Bridges inserted a table of proposed Federal expenditures for 1960 by major items of expenditure. pp. 1816-7
Sen. Cotton inserted a table of Federal expenditures for fiscal years 1954-60 by major items of expenditure. pp. 1858-9
11. VEGETABLES. Sen. Smith, Me., inserted a letter from the executive vice president of the United Fresh Fruit and Vegetable Assoc., discussing the relative merits of potatoes and rice as a food product. pp. 1821-3
12. ELECTRIFICATION. Sen. Curtis, Nebr., inserted resolutions from the Nebr. Rural Electric Assoc., and the Upson County, Ga., Electric Membership Corporation Board of Directors, favoring legislation to make REA an independent agency. pp. 1889-90
13. ADJOURNED until Mon., Feb. 9. p. 1892

HOUSE

14. HOUSING. The Housing subcommittee of the Banking and Currency Committee ordered reported to the full committee with amendment H. R. 2357, to extend and amend laws relating to housing. p. D75

ITEMS IN APPENDIX

15. REA. Sen. Wiley commended the REA program, inserted statistics on the scope and development of the program in Wisconsin, and inserted a letter from the Administrator of REA reviewing REA activities in fiscal year 1958. pp. A898-9
16. HOUSING. Extension of remarks of Rep. Pelly, stating that passage of the \$300 million direct loans to veterans' housing bill was a "back door Treasury type of legislation." p. A903

AMENDING THE FEDERAL FOOD, DRUG, AND COSMETIC ACT
WITH RESPECT TO THE LISTING AND CERTIFICATION OF
CITRUS RED NO. 2 FOR COLORING MATURE ORANGES

FEBRUARY 6, 1959.—Ordered to be printed

Mr. HILL, from the Committee on Labor and Public Welfare,
submitted the following

R E P O R T

[To accompany S. 79]

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 79) to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances, having considered the same report favorably thereon, with amendments, and recommend that the bill do pass.

EXPLANATION

The practice of using artificial color to color the skins of fully mature, sound oranges has prevailed in Florida and Texas for many years. Such coloring is necessary because fully mature fruit from those areas in many instances may be greenish and nonuniform in color.

Formerly the coloring material employed was coal-tar color F.D. & C. Red No. 32. Under the provisions of the Federal Food, Drug, and Cosmetic Act this color was certified by the Food and Drug Administration as is authorized by law under provisions that require it to be harmless and suitable for use. In 1955 the Food and Drug Administration developed evidence that F.D. & C. Red No. 32 is not harmless since, under some circumstances and in some quantities, it is capable of causing harm when fed to laboratory animals under properly conducted tests. Because of these findings the Administration caused the color F.D. & C. Red No. 32 to be removed from the list of colors certifiable for use in foods, which had the effect of prohibiting its use for coloring oranges.

In the 84th Congress legislation was passed, Public Law 672, which provided for the temporary continuation of certification and use of the color previously known as F.D. & C. Red No. 32 solely for the purpose of coloring skins of oranges, it having been determined that this would involve no known danger to the public health. This legislation expressly provided an expiration date of February 28, 1959, or sooner if a harmless substitute were developed and listed. It was implicit in the understandings that, during the period thus allowed, every effort would be made by the interested industries to develop a coal-tar color for use on oranges which would meet the criteria of harmlessness and permit its certification under the Federal Food, Drug, and Cosmetic Act.

The studies undertaken led to the development of the color known as Citrus Red No. 2, which is chemically 1-(2,5-dimethoxyphenylazo)-2 naphthol. The committee has been assured that the toxicity level of Citrus Red No. 2 is significantly lower than that of F.D. & C. Red No. 32.

At feeding levels considerably higher than those required to color oranges, Citrus Red No. 2 can harm test animals; therefore it is not eligible for certification for food use under present law. But in the quantities necessary to color the skin of oranges it is without hazard to man.

In order to provide an available color which will be useful in the coloring of mature oranges upon the expiration of the effective existing law, Public Law 672, this bill provides authorization for the listing and certification under safe tolerances of Citrus Red No. 2 solely for use in coloring mature oranges. It provides that under such quantitative tolerance limitations, and pursuant to regulations to be established by the Department of Health, Education, and Welfare, each batch of such color employed in the coloring of mature oranges shall be certified. Since it will require a period of approximately 60 days for the color Citrus Red No. 2 to be manufactured, certified, and available to orange packers, the bill further provides that the effective date for the termination of Public Law 672 shall be May 1, 1959. This has the effect of extending the period in which the color formerly known as F.D. & C. Red No. 32 may be employed to color oranges 2 months, and thus allow a period for the new color authorized in this bill to become available under the conditions and restrictions heretofore stated.

The committee has concluded from the evidence presented that enactment of this bill will in no wise be detrimental to the public health or introduce into the food supply an unsafe color. It is further concluded that enactment of this bill will not result in increasing the price of colored oranges to the consumer inasmuch as the competition between colored and uncolored oranges would have the effect of precluding passing on the cost of coloring to the consumer.

The enactment of this bill is entirely consistent with the provisions of the Federal Food, Drug, and Cosmetic Act generally. It is specifically provided that the provisions of this bill will become inoperative on September 1, 1961, or before that time if general legislation affecting coloring materials for food is enacted by the Congress. The reason for the time limit is that this is emergency legislation, which will meet the immediate needs of the citrus industry without permanently engrafting on the basic Food, Drug, and Cosmetic Act a new principle.

of tolerances for coal-tar colors which is not applicable to foods generally. The expiration date has been so fixed as to allow the Congress ample time to consider the application of this principle to all foods.

COMMITTEE AMENDMENTS

The amendments which the committee has made in the bill and which have been approved of by the Department of Health, Education, and Welfare are as follows:

1. As introduced, section 1 of the bill would repeal the second proviso to section 402(c) of the Federal Food, Drug, and Cosmetic Act, which had been enacted by Public Law 672, 84th Congress, so as to permit the coloring of the skins of oranges, until March 1, 1959, with the color formerly known as F.D. & C. Red No. 32. Section 2 of the bill is a saving clause to the effect that the repeal of the second proviso of section 402(c) of the Federal Food, Drug, and Cosmetic Act shall not become effective with respect to oranges colored before the March 1, 1959, cutoff date.

The first committee amendment substitutes for this part of section 1 of the bill and for section 2 a provision amending the second proviso of section 402(c) of the act by striking out the cutoff date of "March 1, 1959," and inserting in lieu thereof "May 1, 1959,". The effect of this amendment is to extend the cutoff date for coloring oranges with F.D. & C. Red No. 32 for about 2 months, so as to permit an orderly transition from the use of the color formerly known as F.D. & C. Red No. 32 to Citrus Red No. 2 for coloring the skins of oranges. It will require about 2 months to manufacture and distribute the new color after enactment of the bill.

This committee amendment has been recommended by the sponsor of the bill and by the industry, and the committee has been advised by the Department of Health, Education, and Welfare that it has no objection to the amendment.

2. Section 1 of the bill as introduced also would repeal the third proviso to section 402(c) of the Federal Food, Drug, and Cosmetic Act, which now provides that the second proviso, above described, shall have no further effect if prior to March 1, 1959, another coal-tar color suitable for coloring oranges is listed under section 406.

The committee amendment, instead of repealing this proviso, would amend it so as to substitute for its present provisions all of the provisions of the bill relating to the listing and certification of Citrus Red No. 2 for coloring the skins of oranges. This is purely a technical amendment.

3. The third committee amendment would insert on page 2, line 16, of the bill, after the words "prior to", the phrase "September 1, 1961 and to".

The effect of this amendment is to insert a definite time limit, i.e., September 1, 1961, in the bill in addition to the indefinite time limit now specified, so that oranges could be colored with Citrus Red No. 2 under the provisions of the bill only until September 1, 1961, or earlier should the Congress enact general legislation for the listing and certification of food color additives under safe tolerances before that date.

This amendment, suggested by the Department of Health, Education, and Welfare, makes the measure temporary emergency legislation to be effective for a period which is expected to be adequate for congressional consideration.

DEPARTMENTAL REPORTS

The reports of the Secretary of Health, Education, and Welfare and the Director of the Bureau of the Budget are as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
January 29, 1959.

HON. LISTER HILL,
*Chairman, Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of January 13, 1959, for a report on S. 79, a bill to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

As you know, March 1, 1959, is the expiration date of emergency legislation (Public Law 672, 84th Cong.), enacted in 1956, which, notwithstanding the general provisions of the Federal Food, Drug, and Cosmetic Act, permits the temporary continued use, on mature oranges, of a coal-tar color which was formerly on the food color list established under the act but which is now, because of its toxicity, only on the list of colors certified for use in drugs and cosmetics intended for external application to the human body. (The color, formerly known as F.D. & C. Red 32, is now listed as External D. & C. Red 14.) The provisions of Public Law 672, 84th Congress, did not require us to attempt to establish a tolerance limitation to govern the use of that color on oranges during the emergency period, nor would the available data have furnished a scientific basis for the establishment of such a tolerance.

The present bill (S. 79) is designed to permit continuation of the industry's coloring practice for mature oranges (primarily oranges from Florida and Texas), but only with a recently developed substitute coal-tar color, Citrus Red No. 2, and subject to regulations prescribing the conditions, including tolerance limitations, under which the color may be safely used.

For the reasons discussed below, we feel constrained to recommend against enactment of S. 79 in its present form, because the actual terms of the bill, despite the title of the bill, give no real assurance that it would in fact be only temporary emergency legislation pending congressional consideration of general legislation to permit use of toxic food colors under tolerance limitations and other appropriate safeguards. The bill would, however, be acceptable to us if this objection were removed by an appropriate amendment along the lines suggested in this report.

Under the provisions of the present law, a food is deemed to be adulterated if it bears or contains a coal-tar color, unless the color is from a batch certified in accordance with regulations issued under section 406(b) of the act. Section 406(b) permits the listing and certification of coal-tar colors for use in or on food only if the color is "harmless and suitable for use in food." This provision precludes us

from listing any color for use in or on food unless the color is a harmless substance, i.e., without potentiality of harm when permitted to be used in foods generally without restriction. We have no power to fix tolerances for toxic coal-tar colors so as to permit their safe use in or on food, or to limit the use of coal-tar colors to specified foods, or to a specified manner of application to food. For this reason, and on the basis of this view of the law, we were constrained to "delist" for food use F.D. & C. Red 32, a color which had long been used in coloring a large part of the Florida and Texas mature orange crop and which had theretofore been on the list on the erroneous assumption that the color satisfied the criteria above mentioned. The segment of the orange industry involved, and makers of this color, challenged our interpretation of the law in the courts, but the Supreme Court, on December 15, 1958, sustained the delisting order and our view of the law (*Flemming v. Florida Citrus Exchange*, 79 Sup. Ct. 160 (decided December 15, 1958)).

The delisting of this color, the only one known at that time to be suitable for the purpose, created an emergency for the segment of the orange industry involved because large quantities of Florida and Texas oranges are green in color when harvested in their mature state, and because such oranges, when not artificially colored, have met strong consumer resistance and the coloring practice had thus become an economic necessity for this part of the industry. In view of these facts and the fact that the evidence so far available did not establish any likelihood of injury from such use of this color, Congress enacted the above-mentioned emergency legislation, with a view to giving the industry a reasonable period of time to make tests and studies necessary to determine the precise toxicity of Red 32 and to develop a harmless substitute if possible. The industry, since then, has developed a proposed substitute coal-tar color, known as Citrus Red No. 2, which, although not a harmless color which could be listed under the present act for use in or on food, has lower toxicity and at the same time greater tinctorial power than Red 32. On the basis of the data furnished us by the industry, we believe that Citrus Red No. 2 is suitable for use in coloring the skins of oranges and that, if authorized, we would be able to establish a safe tolerance for such use.

The question remains whether, in view of these facts, the enactment of the special legislation proposed by S. 79, in its present form, is warranted.

In reporting on July 29, 1958, on S. 3595 (85th Cong.), which proposed permanent legislation to require us to prepare a special list of color additives for use on certain mature oranges (under safe tolerances if necessary), we expressed the view that it "would be unwise and discriminatory to enact *permanent* legislation of this nature on the basis of a single food commodity to the exclusion of other food products." [Italic supplied.] And we stated that we would therefore be constrained "to recommend that, rather than proceeding with consideration of [such special legislation], the Congress give consideration to legislation dealing with the question of artificial coloring in all foods. The enactment of such broader legislation along sound lines would establish uniform criteria applicable to all foods and would at the same time accomplish the objectives of S. 3595." We included with our report on that bill a copy of our report on H.R. 8945 (a comprehensive color bill) to the House Committee on Interstate and Foreign Commerce, which indicated that we favored the principle of

allowing the safe use of added toxic colors in foods, drugs, and cosmetics under proper safeguards, including appropriate tolerance limitations, and subject to properly framed transitional provisions relating to coal-tar colors listed as certifiable at the time of enactment of the amendment. An extra copy of our report on S. 3595, together with our report on H.R. 8945, is herewith enclosed for your convenience.

We realize that the statutory expiration date of March 1, 1959, fixed for the use of Red 32 by Public Law 672, 84th Congress, foreshadows an emergency for the Florida and Texas growers involved, since Citrus Red No. 2, the substitute color developed by the industry, is not "harmless" and cannot be listed under the present act and since Congress could hardly be expected to enact by that date general legislation to permit the listing and certification of toxic food colors under safe tolerances. We would therefore not object to the enactment of legislation to permit the use of Citrus Red No. 2 under safe tolerances on a temporary emergency basis, i.e., until the adjournment of the first regular session of the next Congress or, if a definite date is desired, until September 1, 1961, thus affording ample time for Congress to consider and enact general legislation on this subject, which, we assume, would supersede the emergency legislation.

Under S. 79, however, the proposed "temporary" legislation would terminate only upon the "enactment by the Congress * * * of general legislation for the listing and certification of food color additives under safe tolerances." This would mean that if, contrary to our hope and expectation, the 86th Congress—and, indeed, future Congresses—should turn down the proposed new principle of establishing tolerances for toxic food colors, the use of Citrus Red No. 2 on oranges under tolerances prescribed by the Secretary would, nevertheless, be permitted, thus converting the so-called temporary legislation into permanent legislation. This could lead to further special statutes engrafting upon the act one special exception after another for this or that food, or this or that color or use of color, and without certain safeguards which, we believe, should be contained in general color legislation.

Thus, S. 79 is subject to the basic objection raised by us in our report of July 29, 1958, on S. 3595, and we are therefore likewise constrained to object to the enactment of S. 79. If, however, the bill were amended along the lines above indicated, the bill would be acceptable to the Department as reasonable emergency legislation. An amendment which would accomplish this would be to amend the phrase "prior to the enactment by the Congress (subsequent to the date of enactment of this proviso) of general legislation for the listing and certification of food color additives under safe tolerances," which appears on page 2, lines 16-19, of the bill, by inserting within the parentheses after the word "proviso," the phrase "and prior to September 1, 1961,". Enactment of the bill as so amended, would, we believe, adequately serve the industry's purpose without being open to the objection that it would indefinitely give favored treatment to one industry in resolving a public-health problem in a way which, if valid for one, is valid for all.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

ARTHUR S. FLEMMING, *Secretary*.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington D.C., February 2, 1959.

HON. LISTER HILL,
*Chairman, Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.*

MY DEAR MR. CHAIRMAN: This is in reply to your request of January 13, 1959, for the views of the Bureau of the Budget on S. 79, to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

This bill is designed to permit continuation of the industry's coloring practices for mature oranges, a practice which would otherwise expire on March 1, 1959, under the terms of the existing Food, Drug, and Cosmetic Act, as amended by Public Law 672, 84th Congress. Unlike Public Law 672, which authorized the use of Red 32, S. 79 would authorize the use of a substitute coal-tar color, Citrus Red No. 2.

We recommend against enactment of S. 79 in its present form inasmuch as the bill provides for an indefinite rather than temporary extension of the use of coal-tar color practices on mature oranges. We concur with the view presented in the report of the Department of Health, Education, and Welfare to the effect that it would be unwise and discriminatory to enact permanent rather than temporary legislation of this nature on the basis of a single food commodity to the exclusion of other food products. We agree with the Department that some kind of time limitation should be included in S. 79 in order to make it clear that the authority for the use of Citrus Red No. 2 would be of a temporary emergency type.

If the bill were amended along the lines indicated above, however, the Bureau of the Budget would have no objection to its enactment.

Sincerely yours,

(Signed) PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SEC. 402. A food shall be deemed to be adulterated—

(a) * * *

(b) * * *

(c) If it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 406: *Provided*, That this paragraph shall not apply to citrus fruit bearing or containing a coal-tar color if application for listing of such color has been made under this Act and such applica-

tion has not been acted on by the Secretary, if such color was commonly used prior to the enactment of this Act for the purpose of coloring citrus fruit: *Provided further*, That this paragraph shall not apply to oranges meeting minimum maturity standards established by or under the laws of the States in which the oranges were grown and not intended for processing (other than oranges designated by the trade as "packing house elimination"), the skins of which have been colored at any time prior to **[March 1, 1959,]** *May 1, 1959*, with the coal-tar color certified prior to the enactment of this proviso as F.D. & C. Red 32, or certified after such enactment as External D. & C. Red 14 in accordance with section 21, Code of Federal Regulations, part 9: **[And provided further**, That the preceding proviso shall have no further effect if prior to March 1, 1959, another coal-tar color suitable for coloring oranges is listed under section 406.] *And provided further*, That, without regard to the requirements of sections 406(b) and 701(e), the Secretary shall promptly establish, and may from time to time amend, regulations (1) prescribing the conditions (including quantitative tolerance limitations) under which the coal-tar color known as Citrus Red No. 2 (more particularly to be defined in such regulations) may be safely used in coloring the skins of oranges which are not intended or used for processing (or, if so used, are oranges designated in the trade as "packing house elimination"), and which meet minimum maturity standards established by or under the laws of the States in which the oranges are grown, (2) providing for separately listing such color solely for such use on such oranges, and (3) providing for the certification of batches of such color, with or without harmless diluents, for such restricted use; and such oranges, if colored prior to September 1, 1961, and to the enactment by the Congress (subsequent to the date of enactment of this proviso) of general legislation for the listing and certification of food color additives under safe tolerances, in conformity with this proviso and such regulations, with Citrus Red No. 2 from a batch certified in accordance with such regulations, shall not be deemed to be adulterated within the meaning of this paragraph.



86TH CONGRESS
1ST SESSION

Calendar No. 47

S. 79

[Report No. 50]

IN THE SENATE OF THE UNITED STATES

JANUARY 9 (legislative day, JANUARY 8), 1959

Mr. HOLLAND introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

FEBRUARY 6, 1959

Reported by Mr. HILL, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That paragraph (c) of section 402 of the Federal Food,
4 Drug, and Cosmetic Act is amended by repealing the second
5 and third provisos to such paragraph, and by inserting before

1 the period at the end of such paragraph a new proviso as
2 follows: *“Provided further, That (a) the second proviso of*
3 *section 402(c) of the Federal Food, Drug, and Cosmetic*
4 *Act is amended by striking out “March 1, 1959,” and*
5 *inserting in lieu thereof “May 1, 1959,”.*

6 (b) *The third proviso of section 402(c) of such Act*
7 *is amended to read as follows: And provided further, That,*
8 *without regard to the requirements of sections 406 (b) and*
9 *701 (e), the Secretary shall promptly establish, and may*
10 *from time to time amend, regulations (1) prescribing the*
11 *conditions (including quantitative tolerance limitations)*
12 *under which the coal-tar color known as Citrus Red No. 2*
13 *(more particularly to be defined in such regulations) may*
14 *be safely used in coloring the skins of oranges which are*
15 *not intended or used for processing (or, if so used, are*
16 *oranges designated in the trade as ~~packing house~~ elimina-*
17 *tion “packing house elimination”), and which meet mini-*
18 *imum maturity standards established by or under the laws*
19 *of the States in which the oranges are grown, (2) provid-*
20 *ing for separately listing such color solely for such use on*
21 *such oranges, and (3) providing for the certification of*
22 *batches of such color, with or without harmless diluents, for*
23 *such restricted use; and such oranges, if colored prior to*
24 *September 1, 1961, and to the enactment by the Congress*
25 *(subsequent to the date of enactment of this proviso)*

1 of general legislation for the listing and certification of
2 food color additives under safe tolerances, in conformity with
3 this proviso and such regulations, with Citrus Red No. 2
4 from a batch certified in accordance with such regulations,
5 shall not be deemed to be adulterated within the meaning
6 of this paragraph.”

7 ~~SEC. 2.~~ This Act shall take effect upon the date of enact-
8 ment, except that the repeal of the second proviso of section
9 402(c) of the Federal Food, Drug, and Cosmetic Act shall
10 not become effective with respect to oranges the skins of
11 which are colored before March 1, 1959, in accordance with
12 such proviso.

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

By Mr. HOLLAND

JANUARY 9 (legislative day, JANUARY 8), 1959

Read twice and referred to the Committee on Labor and Public Welfare

FEBRUARY 6, 1959

Reported with amendments

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

Issued February 10, 1959
For actions of February 9, 1959
86th-1st, No. 22

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HIGHLIGHTS: Sen. Yarborough criticized administration farm policies. Sen. Williams, Del., introduced and discussed bill to require contribution by States to cost of feed or seed furnished farmers in disaster areas. Sen. Stennis introduced and discussed bill to make surplus property available to State and county extension services. Sen. Proxmire introduced and discussed bill to extend FHA loans to fur farmers.

HOUSE

1. AREA REDEVELOPMENT. Received from the Commerce Department a proposed bill "To assist areas to develop and maintain stable and diversified economies by a program of financial and technical assistance"; to Banking and Currency Committee. p. 1983
2. OILS; IMPORTS. The Ways and Means Committee ordered favorably reported without amendment, H. R. 147 "To suspend temporarily the tax on the processing of palm oil, palm-kernel oil, and fatty acids, salts, and combinations or mixtures thereof. p. D78
3. PERSONNEL. The Ways and Means Committee ordered favorably reported without amendment H. R. 3472 providing for treatment of accrued annual leave in accordance with State laws in determining eligibility of Federal employees for unemployment compensation. p. D78

4. BUDGET. Rep. Rhodes stated that he doubted if the Democrats would ask for increased taxes with increased expenditures and inserted several statements by the President cautioning Congress about an unbalanced budget. pp. 1973-4
5. ADJOURNED until Wed., Feb. 11. p. 1983

SENATE

6. ORANGES. Passed as reported S. 79, to permit continuance of the practice of coloring oranges. pp. 1932-5
7. FARM PROGRAM. Sen. Yarborough criticized administration farm policies as being unrealistic, stated that adoption of the President's farm recommendations "would mean that many hundreds of thousands more little farmers would be driven off their land," and inserted two newspaper articles on the subject. pp. 1918-
8. BUDGET. Sen. Johnson inserted a table indicating reductions made by Congress in budget estimates for fiscal years 1954 through 1959, and discussed these reduction with Sen. Dirksen. pp. 1919-21
Sen. Williams, Del., inserted and discussed a table indicating budget deficits and surpluses from 1900 through 1958. pp. 1927-9
Sen. Morse urged the adoption of a capital budget as a better means of reflecting the financial condition of the Government. pp. 1936-37
9. FOREIGN AFFAIRS. Sen. Fulbright inserted and commented on several articles discussing the need for adopting new economic policies in our foreign affairs. pp. 1921-6
Sen. Ellender reported on his recent inspection tour in South and Central America, and inserted a summary of his conclusions and recommendations. He recommended that the Departments of Agriculture and State reevaluate the justification for maintain^{ing} agricultural attaches in Latin America, stating that he found "that most of the operations of agricultural attaches are so much wasted motion." pp. 1945-55
10. FORESTRY. Sens. Dworshak and Martin were appointed members of the Outdoor Recreation Resources Review Commission to fill the vacancies of Sens. Watkins and Barrett. p. 1898
11. VETERANS' AFFAIRS. Both Houses received from the Veterans' Administration a report on its activities for the fiscal year 1958. pp. 1898, 1983
12. PURCHASING. Sen. Wiley criticized the purchasing by the Federal Government of electric generating equipment in foreign countries rather than this country, and inserted a memorandum he had received from Allis-Chalmers Co. on the matter. pp. 1915-6
13. WATERSHED RESEARCH. Sen. Morse inserted a resolution from the Ore. division of the Izaak Walton League urging an expanded program of research on forest and range watershed lands by the Forest Service in Ore. p. 1936
14. INFLATION; PRICES. Sen. Proxmire inserted several articles and statements discussing inflation and recent price trends, including consumer prices, retail food prices, and wholesale prices. pp. 1955-66
15. RECLAMATION. S. 147, to modify and reauthorize the Garrison diversion unit of the Missouri River Basin project, was rereferred from the Public Works to the Interior and Insular Affairs Committee. p. 1914

tax bill to produce \$470 million in the 2 years beginning July 1. This is \$83,500,000 more than in the current fiscal biennium and \$51 million more than appropriations for the 2-year period ending this June.

He will seek a 1-percent increase in all individual income tax brackets and attempt to introduce a withholding system of collecting income taxes. The three-term Governor is also planning increases in taxes on iron ore, cigarettes, liquor, tobacco, and inheritances and gifts. He would also end the deductibility of Federal taxes for corporate income taxpayers.

The income-tax provisions face a rough time in Minnesota's heavily conservative senate. Business groups are pressing for a 3-percent sales tax linked with \$10 individual credits against income-tax liability. But no Republican or conservative legislator is taking the initiative on this.

MONTANA

Legislative leaders expect a budget of \$78 million for the next 2 years, \$14 million more than the present budget. The State now has a \$5 million deficit in its general fund.

Numerous tax bills have been introduced in the legislature. Some would provide new taxes, such as taxes on bowling and the sale of soft drinks. Others would raise rates on personal and corporation incomes. Still others would remove exemptions and deductions.

NEBRASKA

Nebraska has a surplus expected to be more than \$26 million for the 1957-59 biennial budget, but has a financial problem just the same.

Its problem is to raise \$4 million for the next biennium to cover increased funds asked by State-supported educational institutions and other growing needs. State officials are trying to get the money without raising the property tax, which is the only tax Nebraska has for the support of the State government. This tax is now \$7.97 a \$1,000 of assessed value.

Gov. Ralph G. Brooks has called for stricter enforcement of the existing tax law. He said enough additional property could be put on the tax rolls to raise the \$4 million. Others have suggested a tax up to 6 percent on parimutuel horse racing.

OREGON

A surplus estimated at \$30 million on June 30, 1959, is expected to be used up in the following 2 years. The proposed budget for the next biennium calls for expenditures of \$299 million, or \$22 million more than the present budget. Since the new budget was proposed, bills calling for the spending of \$29 million more have been introduced in the legislature.

Gov. Mark Hatfield has announced he will present a tax program to the legislature today. He has already proposed broadening the income tax base. Speculation has centered on the possibility of a 1 percent gross income tax, a cigarette tax, a real estate transfer tax, and removal of the personal property credit from the corporation net income tax.

PENNSYLVANIA

The Pennsylvania Legislature faces the prospect of raising \$500 million in new taxes to balance the budget for the 1959-61 fiscal biennium beginning in June.

Gov. David L. Lawrence's first budget is expected to approximate \$2,500 million. The current budget is \$2 billion, and a \$100 million deficit is expected by the end of the fiscal period.

The Governor had ordered spending cut to the bone with no vacant jobs to be filled except on his approval. He is awaiting a report from a tax study committee before announcing a tax program.

However a 1-cent increase in the gasoline tax, now 5 cents, is expected. This would yield \$31 million additional. And \$5 million

would come from an expected \$1 increase in the cost of an auto license tag or driver's license. A 1-cent increase in the present 5-cents-a-pack tax on cigarettes, and elimination of a number of exemptions in the sales tax are also considered.

SOUTH DAKOTA

Gov. Ralph Herseth has proposed a budget of \$63,500,000, which is \$8 million higher than any previous budget in the State. Most of the increase is for educational purposes. The increase exceeds by \$1 million the \$7 million surplus in the State's general fund.

The Governor has recommended increasing the cigarette tax including liquor, hotel and motel bills and various exempted service in the sales tax, and imposing a new bottle cap tax on soft drinks.

TEXAS

Gov. Price Daniel has proposed a tax program to wipe out a deficit of about \$65 million in the State operating fund and provide \$72,800,000 a year in new revenue.

A decline in oil tax revenues is blamed in large part for the deficit. In addition, the Governor has recommended a new budget that raises total State spending by 17 percent. The 2-year budget calls for \$2,311,434,306.

The tax proposals include a new severance beneficiary tax on natural gas at 3 percent of value, revision of the corporation franchise tax formula, increased taxes on motor vehicle sales, liquor and cigars; elimination of exemptions on sales of cigarettes and beer on military reservations, and a tightening of tax collection machinery.

Another proposal calls for the State to take over property unclaimed for 7 years, such as bank deposits, dividends and royalties.

VERMONT

Gov. Robert T. Stafford, a Republican, has proposed a \$52,905,000 budget for 1959-60, compared with \$50,365,630 for the current financial year. The State faces a deficit estimated at close to \$4 million as of June 30.

The incoming administration was pledged to avoid new taxes, but some are recommended in the Governor's proposal. One calls for a 20-percent tax on all other tobacco products to match the existing 20 percent tax on cigarettes. There would also be a 5-percent tax on meals costing more than \$1 and on rooms in public lodging places.

The Governor has not called for a sales tax. Its chances of passage had earlier been considered problematical. Vermont already has a graduated income tax that takes 7 percent of net incomes over \$5,000.

WASHINGTON

The most controversial tax measure in Gov. Albert D. Rosellini's proposed general fund budget of \$835,500,000 is a proposed sales tax on services, from attorneys to shoe-shine boys. Opponents say it would overlap the present business and occupation tax of eight-tenths of 1 percent on all gross income over \$3,600.

The Governor is also facing rough going on proposals for a State income tax and for a 5 percent tax on the gross of parimutuel betting. He would also raise the present 10 percent tax on hard liquor and beer to 30 percent.

In defending his budget Governor Rosellini said he had trimmed \$71,750,000 from the original requests of State agencies but had added \$18 million in salary increases. Revenue measures would provide tax increases totaling \$135 million.

One of the principal increases would come from an increase in the sales tax to 4 percent from its present 3 1/3 percent.

WEST VIRGINIA

The West Virginia legislature is expected to authorize a budget increase of \$18 million to \$20 million, including \$10 million for

roads and the rest for education, mental health and public welfare. The current budget is \$118,262,778 for the year ending June 30, 1959.

The State has been hard hit by unemployment, especially in the coal fields. This has resulted in declining tax revenues, particularly from the State sales tax. The Board of Public Works recently cut spending to assure completion of the fiscal year without a deficit.

Tax proposals include raising the gasoline tax from 6 to 7 cents, increasing drivers' license fees from \$1 to \$5 quadrennially, higher charges for auto and truck license plates, elimination of gasoline tax exemptions to railroads and airlines, a gasoline or diesel fuel tax on interstate truckers, and removal of certain exemptions from the consumers sales tax.

MODERNIZATION OF OUR FEDERAL AIRPORTS

Mr. SYMINGTON. Mr. President, last Friday the Senate passed Senate bill 1, to amend the Federal Airport Act.

This action shows clearly that the Senate believes this country means to be a progressive part of the 20th century.

I congratulate the junior Senator from Oklahoma [Mr. MONRONEY], who did the Nation a great service in handling this bill in committee and on the floor with such understanding and ability.

In the framework of this sound legislation and the practical leadership of Senator MONRONEY, the country should fully realize that it cannot afford to do less than to act promptly and effectively toward modernization of our airport facilities.

DESTRUCTION OF AMERICAN TRANSPORT PLANE BY RUSSIAN FIGHTERS

Mr. LAUSCHE. Mr. President, my remarks at this time are prompted by an article, written by Roscoe Drummond, which was published this morning in the Washington Post. In the article Mr. Drummond gives a recitation of the chain of events which has developed since the unarmed American transport plane was found charred and destroyed on Russian territory, with the bodies of 6 Americans in the plane, and with 11 of the crew missing.

Last weekend Radio Moscow made a statement alleging that the U.S. Government manufactured a recorded tape which contained an exchange of information and directions had between pilots of Russian planes which shot down the American transport.

I repeat what I said on the floor of the Senate last week dealing with the exchange I had with Mr. Mikoyan while he was at lunch with members of the Foreign Relations Committee. I asked Mr. Mikoyan, "What about the 11 men who were in that plane which the Soviet said it found on Russian territory?" His answer was that they knew nothing about them; they knew that a charred and destroyed plane was found on the territory of the Soviet; that six dead bodies were in it; and it so informed our Government.

I said to him, "There is a mystery attached to the explanation that has been given about the manner and the method in which that plane was found."

He said to me, "You obviously do not have any faith in us."

I said, "That is not the issue. There has been no adequate explanation given about what happened and where the other 11 bodies are." He then gave this significant answer: "Hereafter if your Government will notify my Government of the presence of an American plane over our land, the number of persons in the plane, and the purposes of the mission, incidents of this type will not happen."

I submit to my colleagues that that statement, by implication, definitely carries the judgment that there was a relationship between the plane being on Russian territory and the failure of our Government to notify the Soviet. He impliedly stated that, "If you had told us that your plane was over our land, that plane, which contained the six American bodies within it, now would not be on the ground, charred and destroyed."

I submit to my fellow Ohioans back home that a reading of the record of what took place will show these facts:

No. 1, it took 10 days before the Soviet disclosed what they alleged had happened.

No. 2, the Soviets refused to allow American inspectors to examine the remains of the fallen plane.

No. 3, when Menshikov was asked to listen to the recorded tape, he refused to do it, asserting that he did not understand the technicalities of the proposition.

Those three facts definitely point to concealment and to a set of facts which are inconsistent with the explanation given by the Soviet about what happened.

Finally, I say that Mikoyan, by his own statements, implied that the plane did not fall, but that it was brought down by the guns of the Soviet.

It will take more than Radio Moscow, and it will take more than the word of the Soviet and Communist officials, to make the people of the world, the people of the United States, and, finally, the people of Russia themselves, believe that the Communists are telling the truth and that we are telling the falsehood. In my judgment, the people of the Soviet will not believe their own leaders on this subject.

MIKOYAN STOLE UNITED STATES SECRETS

Mr. BRIDGES. Mr. President, I ask unanimous consent to have printed in the body of the RECORD a column by Victor Riesel entitled "Mikoyan Stole U.S. Secrets," published in the January 12, 1959, edition of the Manchester Union Leader.

Mr. Riesel should be commended for the distinct public service he has performed in documenting, so that all may read it, the espionage activities of Anastas Mikoyan. This is only part of the record, but it is sufficient to enable anyone to realize that a man with such a background as Mikoyan could not change his inner thinking and philosophy to match the sweetness and light

exterior he now exhibits. I, for one, am not taken in by it, and I will continue to do my utmost to see that the American people shall be informed of the true character and the true purpose of this man.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MIKOYAN STOLE U.S. SECRETS

Those who are not being beastly to Mikoyan, second in command of the Soviet Union, should know that our intelligence agencies have the visiting tovarish listed as a former chief of economic espionage specializing in the United States.

Bluntly and brutally, the visitor now being feted in our best places was under assignment from Joseph Stalin to steal our basic research and newest industrial secrets in the war's final years. Working under Mikoyan were spy rings about which the public never learned. But from these rings Mikoyan funneled some of the industrial developments which have enabled the Russians to beat us into outer space. Mikoyan was not just another member of the Soviet Union's Politburo making general policy.

The visitor wrote the espionage orders himself. He handed them to secret agents for transmittal to America in Soviet diplomatic pouches.

These were, in turn, handed to Comintern representatives as well as hundreds of lesser Soviet officials in the United States. Some of the orders were passed on to pro-Soviet labor leaders, long since exposed. Those men, Americans and Russians, were working daily right in the innards of our most guarded industries. That was in the days when Mikoyan officially was the Soviet Union's Foreign Trade Minister.

To get some of this pedigree on the man now here for a "soft sell" of the Soviets to the American people, you need not have access to any cloak-and-dagger bureau dossier. You need only find one man, still active in Washington and New York. He is one of Mikoyan's former aids, Victor Kravchenko by name.

Back in the war years, Kravchenko was economic attaché of the U.S.S.R. Purchasing Commission in Washington. But he chose freedom. He broke with the Soviets. Later, in April 1947, he swore under oath publicly to what he had secretly told our counter-intelligence agencies during the intervening years. Kravchenko told the House Un-American Activities Committee:

"One more fact. Mikoyan, this Foreign Trade Minister, sent an order, a very secret order.

"All the responsible, prominent members, the Soviet representatives in the United States (telling them) how to carry on economic espionage and on what special problems in the United States" Kravchenko said, describing the Mikoyan order. "This document was delivered to special secret agents in Washington and, it goes without saying, was delivered, thanks to diplomatic immunity. In the same way secret party orders were delivered to Washington from the central committee of the party.

"I must state in general that no person holding an important position in connection with the economic, political, and military organizations and arriving in the United States from the Soviet Union arrives without a special assignment as to the collection of secret information."

All this is known in detail to the top AFL-CIO leaders at their Washington headquarters. They were, therefore, surprised, chagrined, and some of them bitter and angered when they learned late last Monday evening that James Carey, a member of the AFL-CIO's eight-man executive committee,

had invited Mikoyan to a special creamed chicken lunch at his union headquarters.

Some of the labor leaders assumed no undue subtlety in telling this to Carey when he personally telephoned Monday evening and Tuesday morning to ask them to sit with the Soviet official.

Among those who turned Carey down were AFL-CIO president, George Meany, and the machinists' leader, Al Hayes. They said they would not sit with a representative of the nation under whose guns hundreds of working people die each day. There were those who resented this hospitality to Mikoyan because he arrived in the midst of violent anti-semitic and anti-Catholic propaganda campaigns inside the Soviet Union.

Mr. Carey, president of the International Union of Electrical Workers, also attempted to interest Lewellyn Thompson, U.S. Ambassador to Moscow, who now is in Washington. Mr. Thompson said, in effect, "It's all yours, Jim. I wouldn't touch him."

Just what does it take on the Soviets' part for some of our people to treat them as we treated the Nazis—of which they are but a different hue?

CERTIFICATION OF FOOD COLOR ADDITIVES

Mr. HILL. Mr. President, there are two measures on the calendar to which there is no objection. I ask that we now proceed, under the rule, to the consideration of those two measures.

The PRESIDING OFFICER (Mr. Young of Ohio in the chair). Is there further morning business? If not, morning business is closed.

Is there objection to the present consideration of Calendar No. 47, Senate bill 79?

There being no objection, the Senate proceeded to consider the bill (S. 79) to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances, which had been reported from the Committee on Labor and Public Welfare with amendments on page 1, after the enacting clause, to strike out "That paragraph (c) of section 402 of the Federal Food, Drug, and Cosmetic Act is amended by repealing the second and third provisos to such paragraph, and by inserting before the period at the end of such paragraph a new proviso as follows: 'Provided further,' and insert "That (a) the second proviso of section 402(c) of the Federal Food, Drug, and Cosmetic Act is amended by striking out 'March 1, 1959,' and inserting in lieu thereof 'May 1, 1959,'"; on page 2, at the beginning of line 6, to insert "(b) The third proviso of section 402(c) of such Act is amended to read as follows: *And provided further,*"; in line 16, after the word "as", to strike out "packing house elimination" and insert "packing house elimination"; at the beginning of line 24, to insert "September 1, 1961, and to"; and on page 3, after line 6, to strike out:

SEC. 2. This act shall take effect upon the date of enactment, except that the repeal of the second proviso of section 402(c) of the

Federal Food, Drug, and Cosmetic Act shall not become effective with respect to oranges the skins of which are colored before March 1, 1959, in accordance with such proviso.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the second proviso of section 402(c) of the Federal Food, Drug, and Cosmetic Act is amended by striking out "March 1, 1959," and inserting in lieu thereof "May 1, 1959,".

(b) The third proviso of section 402(c) of such Act is amended to read as follows: *And provided further, That, without regard to the requirements of sections 406(b) and 701(e), the Secretary shall promptly establish, and may from time to time amend, regulations (1) prescribing the conditions (including quantitative tolerance limitations) under which the coal-tar color known as Citrus Red No. 2 (more particularly to be defined in such regulations) may be safely used in coloring the skins of oranges which are not intended or used for processing (or, if so used, are oranges designated in the trade as "packing house elimination"), and which meet minimum maturity standards established by or under the laws of the States in which the oranges are grown, (2) providing for separately listing such color solely for such use on such oranges, and (3) providing for the certification of batches of such color, with or without harmless diluents, for such restricted use; and such oranges, if colored prior to September 1, 1961, and to the enactment by the Congress (subsequent to the date of enactment of this proviso) of general legislation for the listing and certification of food color additives under safe tolerances, in conformity with this proviso and such regulations, with Citrus Red No. 2 from a batch certified in accordance with such regulations, shall not be deemed to be adulterated within the meaning of this paragraph."*

The amendments were agreed to.

Mr. HILL. Mr. President, the bill was introduced by the distinguished Senator from Florida [Mr. HOLLAND]; and was considered by the Senate Committee on Labor and Public Welfare. The committee had before it the Senator from Florida [Mr. HOLLAND]; Mr. Harvey, the Deputy Administrator of the Food and Drug Administration; and Mr. Ellenbogen of that Administration. The Senator from Florida [Mr. HOLLAND] and these gentlemen were in full agreement as to the bill and the amendments which the committee reported. The bill has the approval of the Food and Drug Administration; of the Department of Health, Education, and Welfare; and of the Bureau of the Budget. I ask that the bill be passed.

Mr. HOLLAND. Mr. President, I want to express my very great appreciation to the distinguished chairman of the Senate Committee on Labor and Public Welfare in regard to this matter. A hearing was held by the full committee, and the bill was unanimously reported. The distinguished Senator has stated accurately that the amendments were discussed and agreed to not only by the sponsor of the measure, the Senator from Florida, but also by the representatives of the Food and Drug Administration and by counsel for that Administration. The bill as amended was also agreed to by the Department of Health, Education, and Welfare, and representatives of the citrus industry.

Mr. YOUNG of North Dakota. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. YOUNG of North Dakota. Has the bill been discussed with the Republican leadership?

Mr. HOLLAND. The bill has been discussed with the Republican leadership. I personally talked to the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN] who, I will say, sat in on the hearings and joined in the unanimous reporting of the bill.

Mr. YOUNG of North Dakota. I have no objection.

Mr. HOLLAND. I asked the minority leader this morning if he would consent to having the bill taken up today, and he gave me his assurance that it would be proper and met with his approval.

Mr. YOUNG of North Dakota. I have no objection.

Mr. HOLLAND. Mr. President, I ask unanimous consent that excerpts from the able report of the committee, which clearly set forth the situation, be printed in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 79) to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances, having considered the same report favorably thereon, with amendments, and recommend that the bill do pass.

EXPLANATION

The practice of using artificial color to color the skins of fully mature, sound oranges has prevailed in Florida and Texas for many years. Such coloring is necessary because fully mature fruit from those areas in many instances may be greenish and nonuniform in color.

Formerly the coloring material employed was coal-tar color F.D. & C. Red No. 32. Under the provisions of the Federal Food, Drug, and Cosmetic Act this color was certified by the Food and Drug Administration as is authorized by law under provisions that require it to be harmless and suitable for use. In 1955 the Food and Drug Administration developed evidence that F.D. & C. Red No. 32 is not harmless since, under some circumstances and in some quantities, it is capable of causing harm when fed to laboratory animals under properly conducted tests. Because of these findings the Administration caused the color F.D. & C. Red No. 32 to be removed from the list of colors certifiable for use in foods, which had the effect of prohibiting its use for coloring oranges.

In the 84th Congress legislation was passed, Public Law 672, which provided for the temporary continuation of certification and use of the color previously known as F.D. & C. Red No. 32, solely for the purpose of coloring skins of oranges, it having been determined that this would involve no known danger to the public health. This legislation expressly provided an expiration date of February 28, 1959, or sooner if a harmless substitute were developed and listed. It was implicit in the understandings that, during the period thus allowed, every effort would be made by the interested industries to de-

velop a coal-tar color for use on oranges which would meet the criteria of harmlessness and permit its certification under the Federal Food, Drug, and Cosmetic Act.

The studies undertaken led to the development of the color known as Citrus Red No. 2, which is chemically 1-(2,5-dimethoxyphenylazo)-2 naphthol. The committee has been assured that the toxicity level of Citrus Red No. 2 is significantly lower than that of F.D. & C. Red No. 32.

At feeding levels considerably higher than those required to color oranges, Citrus Red No. 2 can harm test animals; therefore it is not eligible for certification for food use under present law. But in the quantities necessary to color the skin of oranges it is without hazard to man.

In order to provide an available color which will be useful in the coloring of mature oranges upon the expiration of the effective existing law, Public Law 672, this bill provides authorization for the listing and certification under safe tolerances of Citrus Red No. 2 solely for use in coloring mature oranges. It provides that under such qualitative tolerance limitations, and pursuant to regulations to be established by the Department of Health, Education, and Welfare, each batch of such color employed in the coloring of mature oranges shall be certified. Since it will require a period of approximately 60 days for the color Citrus Red No. 2 to be manufactured, certified, and available to orange packers, the bill further provides that the effective date for the termination of Public Law 672 shall be May 1, 1959. This has the effect of extending the period in which the color formerly known as F.D. & C. Red No. 32 may be employed to color oranges 2 months, and thus allow a period for the new color authorized in this bill to become available under the conditions and restrictions heretofore stated.

The committee has concluded from the evidence presented that enactment of this bill will in no wise be detrimental to the public health or introduce into the food supply an unsafe color. It is further concluded that enactment of this bill will not result in increasing the price of colored oranges to the consumer inasmuch as the competition between colored and uncolored oranges would have the effect of precluding passing on the cost of coloring to the consumer.

The enactment of this bill is entirely consistent with the provisions of the Federal Food, Drug, and Cosmetic Act generally. It is specifically provided that the provisions of this bill will become inoperative on September 1, 1961, or before that time if general legislation affecting coloring materials for food is enacted by the Congress. The reason for the time limit is that this is emergency legislation, which will meet the immediate needs of the citrus industry without permanently engrafting on the basic Food, Drug, and Cosmetic Act a new principle of tolerances for coal-tar colors which is not applicable to foods generally. The expiration date has been so fixed as to allow the Congress ample time to consider the application of this principle to all foods.

COMMITTEE AMENDMENTS

The amendments which the committee has made in the bill and which have been approved of by the Department of Health, Education, and Welfare are as follows:

1. As introduced, section 1 of the bill would repeal the second proviso to section 402(c) of the Federal Food, Drug, and Cosmetic Act, which had been enacted by Public Law 672, 84th Congress, so as to permit the coloring of the skins of oranges, until March 1, 1959, with the color formerly known as F.D. & C. Red No. 32. Section 2 of the bill is a saving clause to the effect that the repeal of the second proviso of section 402(c) of the Federal Food, Drug, and Cosmetic

Act shall not become effective with respect to oranges colored before the March 1, 1959, cutoff date.

The first committee amendment substitutes for this part of section 1 of the bill and for section 2 a provision amending the second proviso of section 402(c) of the act by striking out the cutoff date of "March 1, 1959," and inserting in lieu thereof "May 1, 1959,". The effect of this amendment is to extend the cutoff date for coloring oranges with F.D. & C. Red No. 32 for about 2 months, so as to permit an orderly transition from the use of the color formerly known as F.D. & C. Red No. 32 to Citrus Red No. 2 for coloring the skins of oranges. It will require about 2 months to manufacture and distribute the new color after enactment of the bill.

This committee amendment has been recommended by the sponsor of the bill and by the industry, and the committee has been advised by the Department of Health, Education, and Welfare that it has no objection to the amendment.

2. Section 1 of the bill as introduced also would repeal the third proviso to section 402(c) of the Federal Food, Drug, and Cosmetic Act, which now provides that the second proviso, above described, shall have no further effect if prior to March 1, 1959, another coal-tar color suitable for coloring oranges is listed under section 406.

The committee amendment, instead of repealing this proviso, would amend it so as to substitute for its present provisions all of the provisions of the bill relating to the listing and certification of Citrus Red No. 2 for coloring the skins of oranges. This is purely a technical amendment.

3. The third committee amendment would insert on page 2, line 16, of the bill, after the words "prior to", the phrase "September 1, 1961 and to".

The effect of this amendment is to insert a definite time limit, i.e., September 1, 1961, in the bill in addition to the indefinite time limit now specified, so that oranges could be colored with Citrus Red No. 2 under the provisions of the bill only until September 1, 1961, or earlier should the Congress enact general legislation for the listing and certification of food color additives under safe tolerances before that date.

This amendment, suggested by the Department of Health, Education, and Welfare, makes the measure temporary emergency legislation to be effective for a period which is expected to be adequate for congressional consideration.

DEPARTMENTAL REPORTS

The reports of the Secretary of Health, Education, and Welfare and the Director of the Bureau of the Budget are as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
January 29, 1959.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public
Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of January 13, 1959, for a report on S. 79, a bill to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

As you know, March 1, 1959, is the expiration date of emergency legislation (Public Law 672, 84th Cong.), enacted in 1956, which, notwithstanding the general provisions of the Federal Food, Drug, and Cosmetic Act, permits the temporary continued use, on mature oranges, of a coal-tar color

which was formerly on the food color list established under the act but which is now, because of its toxicity, only on the list of colors certified for use in drugs and cosmetics intended for external application to the human body. (The color, formerly known as F.D. & C. Red 32, is now listed as External D. & C. Red 14.) The provisions of Public Law 672, 84th Congress, did not require us to attempt to establish a tolerance limitation to govern the use of that color on oranges during the emergency period, nor would the available data have furnished a scientific basis for the establishment of such a tolerance.

The present bill (S. 79) is designed to permit continuation of the industry's coloring practice for mature oranges (primarily oranges from Florida and Texas), but only with a recently developed substitute coal-tar color, Citrus Red No. 2, and subject to regulations prescribing the conditions, including tolerance limitations, under which the color may be safely used.

For the reasons discussed below, we feel constrained to recommend against enactment of S. 79 in its present form, because the actual terms of the bill, despite the title of the bill, give no real assurance that it would in fact be only temporary emergency legislation pending congressional consideration of general legislation to permit use of toxic food colors under tolerance limitations and other appropriate safeguards. The bill would, however, be acceptable to us if this objection were removed by an appropriate amendment along the lines suggested in this report.

Under the provisions of the present law, a food is deemed to be adulterated if it bears or contains a coal-tar color, unless the color is from a batch certified in accordance with regulations issued under section 406(b) of the act. Section 406(b) permits the listing and certification of coal-tar colors for use in or on food only if the color is "harmless and suitable for use in food." This provision precludes us from listing any color for use in or on food unless the color is harmless substance, i.e., without potentiality of harm when permitted to be used in foods generally without restriction. We have no power to fix tolerances for toxic coal-tar colors so as to permit their safe use in or on food, or to limit the use of coal-tar colors to specified foods, or to a specified manner of application to food. For this reason, and on the basis of this view of the law, we were constrained to "delist" for food use F.D. & C. Red 32, a color which had long been used in coloring a large part of the Florida and Texas mature orange crop and which had theretofore been on the list on the erroneous assumption that the color satisfied the criteria above mentioned. The segment of the orange industry involved, and makers of this color, challenged our interpretation of the law in the courts, but the Supreme Court, on December 15, 1958, sustained the delisting order and our view of the law (*Flemming v. Florida Citrus Exchange*, 79 Sup. Ct. 160 (decided December 15, 1958)).

The delisting of this color, the only one known at that time to be suitable for the purpose, created an emergency for the segment of the orange industry involved because large quantities of Florida and Texas oranges are green in color when harvested in their mature state, and because such oranges, when not artificially colored, have met strong consumer resistance and the coloring practice had thus become an economic necessity for this part of the industry. In view of these facts and the fact that the evidence so far available did not establish any likelihood of injury from such use of this color, Congress enacted the above-mentioned emergency legislation, with a view to giving the industry a reasonable period of time to make tests and studies necessary to determine the precise toxicity of Red 32 and to develop a harmless substitute if possible. The industry,

since then, has developed a proposed substitute coal-tar color, known as Citrus Red No. 2, which, although not a harmless color which could be listed under the present act for use in or on food, has lower toxicity and at the same time greater tinctorial power than Red 32. On the basis of the data furnished us by the industry, we believe that Citrus Red No. 2 is suitable for use in coloring the skins of oranges and that, if authorized, we would be able to establish a safe tolerance for such use.

The question remains whether, in view of these facts, the enactment of the special legislation proposed by S. 79, in its present form, is warranted.

In reporting on July 29, 1958, on S. 3595 (85th Cong.) which proposed permanent legislation to require us to prepare a special list of color additives for use on certain mature oranges (under safe tolerances if necessary), we expressed the view that it "would be unwise and discriminatory to enact permanent legislation of this nature on the basis of a single food commodity to the exclusion of other food products." And we stated that we would therefore be constrained "to recommend that, rather than proceeding with consideration of [such special legislation], the Congress give consideration to legislation dealing with the question of artificial coloring in all foods. The enactment of such broader legislation along sound lines would establish uniform criteria applicable to all foods and would at the same time accomplish the objectives of S. 3595." We included with our report on that bill a copy of our report on H.R. 8945 (a comprehensive color bill) to the House Committee on Interstate and Foreign Commerce, which indicated that we favored the principle of allowing the safe use of added toxic colors in foods, drugs, and cosmetics under proper safeguards, including appropriate tolerance limitations, and subject to properly framed transitional provisions relating to coal-tar colors listed as certifiable at the time of enactment of the amendment. An extra copy of our reports on S. 3595, together with our report on H.R. 8945, is herewith enclosed for your convenience.

We realize that the statutory expiration date of March 1, 1959, fixed for the use of Red 32 by Public Law 672, 84th Congress, foreshadows an emergency for the Florida and Texas growers involved, since Citrus Red No. 2, the substitute color developed by the industry, is not "harmless" and cannot be listed under the present act and since Congress could hardly be expected to enact by that date general legislation to permit the listing and certification of toxic food colors under safe tolerances. We would therefore not object to the enactment of legislation to permit the use of Citrus Red No. 2 under safe tolerances on a temporary emergency basis, i.e., until the adjournment of the first regular session of the next Congress or, if a definite date is desired, until September 1, 1961, thus affording ample time for Congress to consider and enact general legislation on this subject, which, we assume, would supersede the emergency legislation.

Under S. 79, however, the proposed "temporary" legislation would terminate only upon the "enactment by the Congress . . . of general legislation for the listing and certification of food color additives under safe tolerances." This would mean that if, contrary to our hope and expectation, the 86th Congress—and, indeed, future Congresses—should turn down the proposed new principle of establishing tolerances for toxic food colors, the use of Citrus Red No. 2 on oranges under tolerances prescribed by the Secretary would, nevertheless, be permitted, thus converting the so-called temporary legislation into permanent legislation. This could lead to further special statutes engrafting upon the act one special exception after another for this or that food, or this or that color

or use of color, and without certain safeguards which, we believe, should be contained in general color legislation.

Thus, S. 79 is subject to the basic objection raised by us in our report of July 29, 1958, on S. 3595, and we are therefore likewise constrained to object to the enactment of S. 79. If, however, the bill were amended along the lines above indicated, the bill would be acceptable to the Department as reasonable emergency legislation. An amendment which would accomplish this would be to amend the phrase "prior to the enactment by the Congress (subsequent to the date of enactment of this proviso) of general legislation for the listing and certification of food color additives under safe tolerances," which appears on page 2, lines 16-19, of the bill, by inserting within the parentheses after the word "proviso" the phrase "and prior to September 1, 1961." Enactment of the bill as so amended, would, we believe, adequately serve the industry's purpose without being open to the objection that it would indefinitely give favored treatment to one industry in resolving a public-health problem in a way which, if valid for one is valid for all.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

ARTHUR S. FLEMMING,
Secretary.

EXECUTIVE OFFICE
OF THE PRESIDENT,
BUREAU OF THE BUDGET,

Washington, D. C., February 2, 1959.

HON. LISTER HILL,
Chairman, Committee on Labor and Public
Welfare, U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your request of January 13, 1959, for the views of the Bureau of the Budget on S. 79, to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

This bill is designed to permit continuance of the industry's coloring practices for mature oranges, a practice which would otherwise expire on March 1, 1959, under the terms of the existing Food, Drug, and Cosmetic Act, as amended by Public Law 672, 84th Congress. Unlike Public Law 672, which authorized the use of Red 32, S. 79 would authorize the use of a substitute coal-tar color, Citrus Red No. 2.

We recommend against enactment of S. 79 in its present form inasmuch as the bill provides for an indefinite rather than temporary extension of the use of coal-tar color practices on mature oranges. We concur with the view presented in the report of the Department of Health, Education, and Welfare to the effect that it would be unwise and discriminatory to enact permanent rather than temporary legislation of this nature on the basis of a single food commodity to the exclusion of other food products. We agree with the Department that some kind of time limitation should be included in S. 79 in order to make it clear that the authority for the use of Citrus Red No. 2 would be of a temporary emergency type.

If the bill were amended, along the lines indicated above, however, the Bureau of the Budget would have no objection to its enactment.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative
Reference.

Mr. HOLLAND. Mr. President, I should like to say first that we are quite content, in the orange-growing industries of Florida and Texas, which use the process, to rely upon the administration of the bill by the Food and Drug Administration, which has affirmatively stated not only that it approves the bill but also that it can administer such a law under rules of tolerance which the Department will prescribe in such a way as to continue to well serve the industry and completely protect the consuming public of the Nation.

I will say that the industry has about \$200 million a year involved in the sale of the product and depends upon the good will of the consuming public of this Nation. The industry would be the last group in the Nation to want to do anything to undermine the usefulness of the product and its availability to be safely consumed by the public.

I will say, very briefly, that to be qualified for the use of the color-added process our oranges have to be of the premium quality; that is, their content must well exceed the standard of maturity and usefulness required both by the Federal Government and by the State of Florida for the ordinary use of citrus fruit. As a matter of fact, it is in the way of a badge of distinction to be able to carry upon the fruit the words "color-added."

Mr. President, we are extremely grateful not only to the committee but to the Senate for allowing this quick handling and passage of the bill, because we are working against a deadline. The present law expires on February 28, so Senators will realize prompt handling and approval of the bill is required under the circumstances.

I again thank my distinguished friend, the Senator from Alabama.

Mr. YARBOROUGH. Mr. President, I desire to commend the distinguished senior Senator from Florida for his able handling of the bill. It was my privilege to be on the committee which heard the bill. The bill passed the committee unanimously, after the Senator's presentation.

I represent an area which produces some oranges and citrus fruit, but unfortunately no real percentage as compared to the great production of the great State of Florida. We join in this request that the Senate pass the bill to give this opportunity to the growers of our citrus fruit.

The citrus industry is a great industry in this country. The quantity of land available for citrus fruit is constantly shrinking, due to the cutting up of the orange groves in southern California and the sale of those orange groves for residence lots. That is curtailing the acreage which is available for citrus fruit production in the United States, so it becomes increasingly important that great care be given to this phase of our domestic agricultural production. This is a part of our agriculture which is not in a distressed state. This part pays its own way and makes money. It is becoming increasingly prosperous.

Passage of the bill now before the Senate will help expedite the marketing of

the crop which is to come from the trees. I again commend the distinguished senior Senator from Florida for his able, expeditious, and knowledgeable handling of the bill. The Senator knows the subject more thoroughly than any other man I know in a legislative body anywhere, and has presented it extremely well before the committee.

Mr. HOLLAND. Mr. President, I certainly thank my distinguished friend, the Senator from Texas. While our great neighboring State of Texas may produce fewer oranges than we produce, surely I would not lay claim to the fact that our oranges are any better than their oranges, which are certainly good, palatable, and delightful to consume. I hope the State of Texas may reach the day when the industry will be larger, because I am sure it will be of increasing profit to the State of Texas and to the Nation for that to be the case.

Mr. YARBOROUGH. Mr. President, modesty forbade me from telling how good are the Texas grapefruit. No one can challenge their superiority on the market, I will say.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BEST WISHES OF CONGRESS TO THE AMERICAN DENTAL ASSO- CIATION

The PRESIDING OFFICER. The clerk will state the next measure on the calendar.

The LEGISLATIVE CLERK. A concurrent resolution (S. Con. Res. 7) extending best wishes of Congress to the American Dental Association on the centennial of its founding.

Mr. HILL. Mr. President, this resolution has been cleared with both the majority leadership and the minority leadership. The resolution is sponsored by some 80 Members of the Senate. The resolution extends best wishes of the Congress to the American Dental Association on the centennial of the founding of that association.

The PRESIDING OFFICER. Is there objection to the consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. HILL. Mr. President, I ask unanimous consent that at this point in the RECORD the statement made by me in reporting the resolution from the Committee on Labor and Public Welfare to the Senate be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The Committee on Labor and Public Welfare on many occasions has had representatives of the American Dental Association appear before it in connection with legislation concerned with health matters. The committee has invariably found the representatives of the association to be most cooperative and exceedingly helpful in ad-

ing the committee in its efforts to see to it that such legislation would be so designed as to best advance the health of our Nation. Members of the committee are also well aware of the selflessness and devotion with which the American Dental Association has repeatedly sponsored programs which have contributed greatly to the dental health of the people of America and, indeed, of peoples throughout the world. In consequence, the members of the committee are unanimous in believing that the tribute which the Congress would pay the American Dental Association through the passage of this resolution is richly deserved.

The **PRESIDING OFFICER.** The question is on agreeing to the concurrent resolution.

The resolution (S. Con. Res. 7) was agreed to, as follows:

Resolved, That the felicitations and best wishes of the Congress of the United States are hereby cordially extended to the American Dental Association on its many and varied contributions to the health of the people and upon the occasion of the one hundredth anniversary of the founding of the association.

The preamble was agreed to.

WATERSHED MANAGEMENT RESEARCH IN OREGON

Mr. MORSE. Mr. President, on February 6 I received a letter from Mr. Arthur K. Roberts, secretary, Oregon division of the Izaak Walton League of America, Inc., containing as an attachment a resolution adopted by the Oregon division at its State convention last November.

Because of the public service which this organization has rendered over the years to the cause of sound water, timber, and game management, I feel that the Senate should have the views of the Oregon division placed before it. I ask unanimous consent that the resolution to which I have made reference be printed at this point in my remarks.

There being no objection, the resolution was ordered to be printed in the **RECORD**, as follows:

PROPOSED RESOLUTION FOR WATERSHED MANAGEMENT RESEARCH IN OREGON

Whereas our national progress and economic security are vitally dependent upon adequate supplies of usable water; and

Whereas wise use of water-source areas is dependent upon principles of watershed management involving integration of water production with recreational uses; growing and harvesting of timber; and grazing of domestic stock and game animals; and

Whereas deteriorating watershed conditions in the State of Oregon have led to many forms of damage to economic and esthetic values, including flooding, sedimentation of stream channels, and destruction of fish habitat; and

Whereas techniques of sound watershed management have not been developed because of insufficient research, particularly in the Pacific Northwest: Now, therefore, be it

Resolved, That the Oregon division of the Izaak Walton League: (a) Promote an expanded program of research on forest and range watershed lands; and (b) advise members of Oregon's congressional delegation of the need for these investigations and encourage support of increased funds for upstream watershed research by the Forest Service in Oregon; and be it further

Resolved, That copies of this resolution be sent to the Secretary of Agriculture, the

Chief of the U.S. Forest Service, chairman of the Subcommittee on Interior and Related Agencies of the House Committee on Appropriations, and to Members of the Oregon congressional delegation.

BALANCED BUDGETS

Mr. MORSE. Mr. President, we heard considerable discussion in the Senate this morning from both sides of the aisle about balancing the budget. With that general proposition I think there is more or less agreement among us, if we could first agree on what budget we are talking about.

It has been very interesting to note that in much of the discussion the proponents of a balanced budget forget to tell the American people that before we talk about balancing it, we ought to have a sound bookkeeping budget, called by the budgeteer experts a capital budget, the type of budget for which the Senator from Oregon has been pleading on the floor of the Senate, as the spokesman of many great industrialists in America, great business leaders, since 1947.

I have been their spokesman since 1947, because I have been pleading for the adoption of the budget report for 1947 of the Committee for Economic Development, a committee composed of great industrial leaders, a committee on which there is not a single governmental official. Since 1947, those leaders of American business represented on the Committee for Economic Development have been telling us, in effect, that we really are misleading the American people on the entire question of balancing the budget—and truly we are—because we do not get the information out to the American people first, that the budget which is sought to be balanced is a type of budget under which no American corporation would think of operating an American business.

In the present Federal budget, there are lumped or merged together the operating costs, the administrative costs of our Government, and all the capital investments that Uncle Sam owns, including investments which are self-liquidating and wealth-producing. It is said, for example, that we should include in balancing the budget expenditures for Grand Coulee or Bonneville Dam, and the other great wealth-producing capital investments of the country.

CAPITAL BUDGET WOULD ENABLE EVALUATION OF EXPENDITURES

If we should ever adopt what some of us have been pleading for in the Senate, namely, a capital budget, a sound bookkeeping budget, the politicians, of course, would lose much of the basis for demagogic appeals to the fears of the American people. There would not be as much political propaganda with which to scare the American people into thinking that Uncle Sam is about to lose his shirt, and that he is ready for the poorhouse. They would recognize the great fiscal soundness of Uncle Sam, and the fact that our governmental wealth has been going forward by leaps and bounds.

If we look at the capital investments, the capital wealth, of Uncle Sam, we find that his wealth has been increasing at such a rapid rate over the years that I

do not become alarmed when I listen to politicians talk about a balanced budget. I am perfectly willing to go along with a program which seeks to eliminate great waste from governmental expenditures; but this is one United States Senator who is not frightened by an unbalanced budget, if that budget bears a sound relationship to the wealth of the United States, and calls for further investments on the part of Uncle Sam which will turn into the Treasury of the United States income from great wealth-producing projects which we should be developing, but which we are not developing at the present time. There seems to be a great tendency in this Congress to soft-pedal them, because the politics of the moment seem to be the politics of a balanced budget.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. MORSE. I yield.

Mr. CLARK. I commend the Senator from Oregon for the statement he has made about the necessity of keeping a capital budget for the U.S. Government. I invite his attention to the fact that there is not a single first-class city in America today which does not conduct its finances by having a separation of the capital budget and the operating budget. There has been a tendency to sneer a little at the governments of our cities in America. I think the sneering has been quite unjustified. If the Government of the United States were to take a leaf from the book of some of our better governed cities and create a sound capital budget system, I think we would all be better off.

I thank my friend for his very pertinent remarks on the subject.

Mr. MORSE. The Senator from Pennsylvania is quite correct. I appreciate his comments.

The Committee on Economic Development has been pointing out the situation to us for years. What worries me is that the American people are greatly concerned about the security of their Nation. The greatest defense weapon the United States has is our economy and its potentialities.

I do not intend to sit at this desk and go along with one Dwight D. Eisenhower in the kind of budget he is presenting to the Congress this year, under the political "hokum" that he is presenting a balanced budget, when he is cheating future generations of American boys and girls out of the heritage to which they are entitled in the development of the resources of the country for an expanded economy, so that America can fulfill her destiny.

As this Congress proceeds, I shall speak on this subject at some length. In this Congress I will dedicate myself, so far as the budget is concerned, to a demonstration of the shortsightedness of the President of the United States in regard to the matter of developing the resources of America so that the United States can become stronger and more secure.

I shall pinpoint the demonstration with recommendation after recommendation in the President's budget—for example, a proposal to recommend not

86TH CONGRESS
1ST SESSION

S. 79

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1959

Referred to the Committee on Interstate and Foreign Commerce

AN ACT

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) the second proviso of section 402 (c) of the Fed-
4 eral Food, Drug, and Cosmetic Act is amended by striking
5 out "March 1, 1959," and inserting in lieu thereof "May
6 1, 1959,".

(b) The third proviso of section 402 (c) of such Act is amended to read as follows: *And provided further*, That, without regard to the requirements of sections 406 (b) and 701 (e), the Secretary shall promptly establish, and may from time to time amend, regulations (1) prescribing the conditions (including quantitative tolerance limitations) under which the coal-tar color known as Citrus Red No. 2 (more particularly to be defined in such regulations) may be safely used in coloring the skins of oranges which are not intended or used for processing (or, if so used, are oranges designated in the trade as "packing house elimination"), and which meet minimum maturity standards established by or under the laws of the States in which the oranges are grown, (2) providing for separately listing such color solely for such use on such oranges, and (3) providing for the certification of batches of such color, with or without harmless diluents, for such restricted use; and such oranges, if colored prior to September 1, 1961, and to the enactment by the Congress (subsequent to the date of enactment of this proviso) of general legislation for the listing and certification of food color additives under safe tolerances, in conformity with this proviso and such regulations, with Citrus Red No. 2

1 from a batch certified in accordance with such regulations,
2 shall not be deemed to be adulterated within the meaning
3 of this paragraph.”

Passed the Senate February 9, 1959.

Attest:

FELTON M. JOHNSTON,

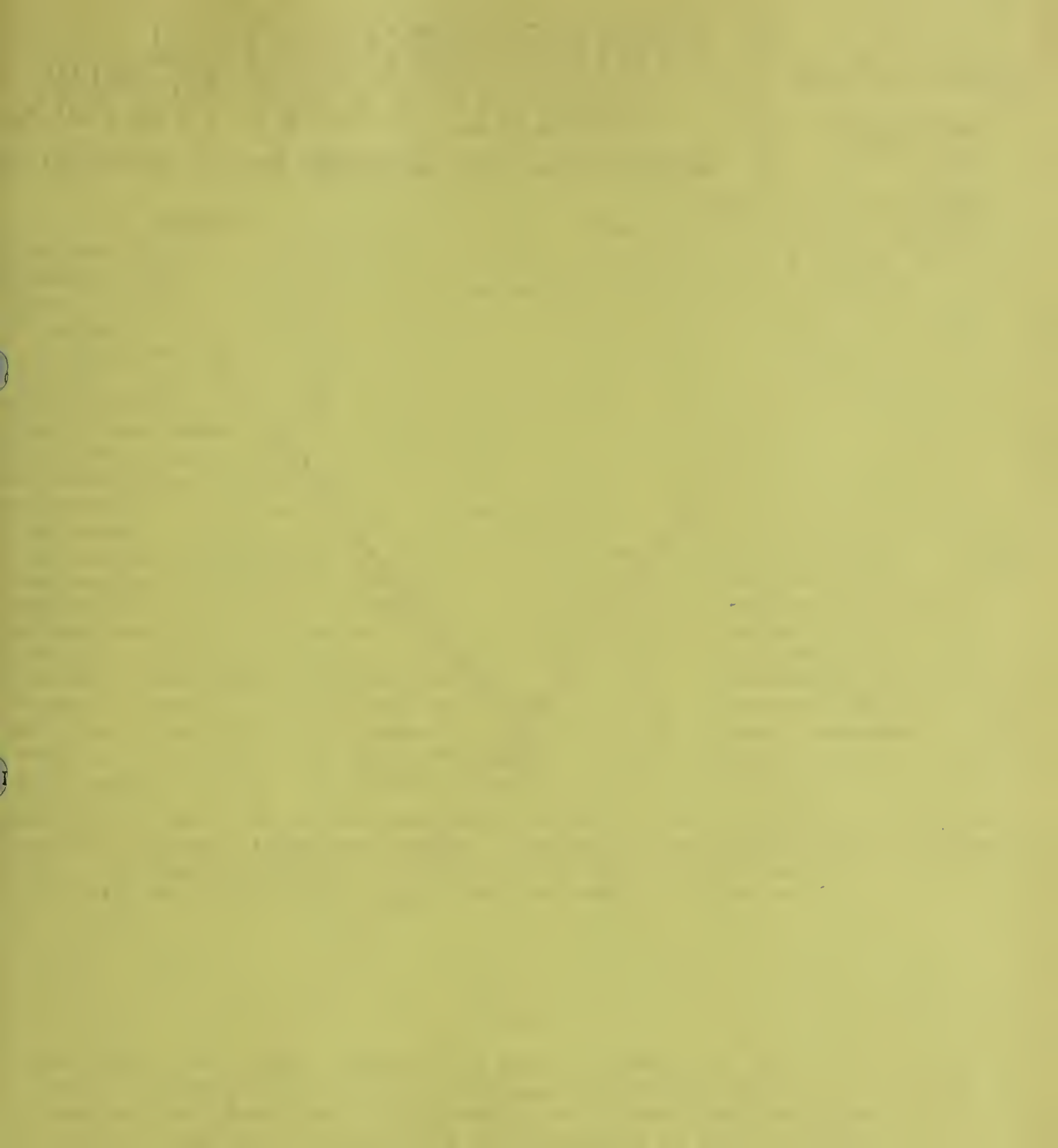
Secretary.

AN ACT

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

FEBRUARY 11, 1959

Referred to the Committee on Interstate and Foreign
Commerce



Digest of CONGRESSIONAL PROCEEDINGS

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

Issued February 20, 1959

For actions of February 19, 1959
86th-1st, No. 28

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HIGHLIGHTS: Sen. Carlson introduced and discussed wheat stabilization bill. Sen. Capehart and others introduced and Sen. Capehart discussed industrial-use research bill. Sen. Humphrey and others introduced and Sens. Humphrey and Neuberger discussed bill to establish National Wilderness Preservation System.

SENATE

1. FORESTRY. Sen. Murray discussed the possible effects of the enactment of proposed legislation to establish wilderness preservation areas on the timber industry, and inserted a table showing the allowable cut and actual cut of timber in the national forests in various states in 1958. p. 2435
Sen. McCarthy inserted a letter from the Commissioner of Conservation of Minn. supporting additional basic research in forestry. p. 2483
2. SURPLUS GRAINS. Sen. Case, S. Dak., discussed and inserted correspondence supporting his bill, S. 946, to provide that soil bank payments may, if a farmer chooses, be paid in surplus grains rather than in cash. pp. 2434-5
3. WATER RESOURCES. Sen. Mansfield discussed expressions of support he has received favoring his resolution, S. 48, to provide for the development of recommendations for a comprehensive legislative program on water resources, and inserted an address by Edward A. Ackerman at the USDA Graduate School, "Water Resources in the United States," and a report of the Federal Reserve Bank of Kansas City, "Water Availability: A District Problem." pp. 2422-7

4. FOREIGN TRADE. Sen. Wiley discussed the effects of foreign trade on our national economy. pp. 2427-9
Sen. Bush inserted an editorial, "Food's Gold," discussing the effects of inflation on U. S. exports. p. 2433
5. EDUCATION. Sen. Talmadge inserted statements discussing Federal aid to educational institutions, including discussions of land-grant colleges, the school lunch program, and vocational education. pp. 2448-9
6. FOREIGN AID. Sen. Kennedy and others spoke in favor of greater U. S. economic assistance to underdeveloped countries. pp. 2483-93
7. BUDGET. Sen. Dirksen defended increases in the President's budget for foreign aid and civil defense, and stated that the Budget Bureau had decreased its staff by 160 employees since 1947. pp. 2437-8
8. ECONOMIC CONDITIONS. Sen. Murray inserted a newspaper editorial favoring a study of the economy by Congress in addition to the study to be undertaken by the committee appointed by the President. pp. 2436-7
9. FAIR TRADE. Sen. Proxmire urged the enactment of fair trade legislation "for outlawing predatory pricing practices in trade-marked goods that are in competition," and inserted his statement of last year before the Senate Interstate and Foreign Commerce Committee supporting such legislation. pp. 2438-40
10. PERSONNEL. Received from the Department of Commerce a proposed bill "To fix the compensation of the General Counsel of the Department of Commerce"; to Post Office and Civil Service Committee. p. 2372
11. GOVERNMENT OPERATIONS. Sen. McClellan submitted a report of the Government Operations Committee on its activities during the 85th Congress (S. Rept. 52). p. 2376
12. ADJOURNED until Mon., Feb. 23. p. 2503

HOUSE

13. ORANGES. The Interstate and Foreign Commerce Committee ordered favorably reported S. 79, to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by HEW. p. D101
14. LEASES. Received from GSA the semiannual report on all leases for periods exceeding 5 years entered into from July 2, 1958 to Dec. 31, 1958. p. 2514
15. ADJOURNED until Mon., Feb. 23. p. 2514

ITEMS IN APPENDIX

16. DAIRY PRODUCTS. Sen. Proxmire inserted a letter contending that milk income on farms has dropped, that the bulk of unemployment is being caused by farmers "pushed out of farming," and that corporate farming is increasing. pp. A1260-1
Extension of remarks by Sen. Proxmire correcting an editorial which quoted the resident physician to Congress as saying cream and butter would not lead to physical fitness. pp. A1267-8

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

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For actions of Feb. 23, 1959
86th-1st, No. 29

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HIGHLIGHTS: House subcommittee ordered reported bill to permit exchange of cotton and rice acreage allotments. Sen. Williams, Del., criticized price support payments to large producers. Sen. Wiley urged additional appropriations for school lunch program. House received USDA proposed bill to increase crop insurance premiums to cover administrative expenses. Sen. Kuchel inserted Secretary's Jan. 30 San Francisco speech. Rep. Cannon submitted measure to provide for reporting of 1960 appropriations in one consolidated bill.

SENATE

- 1. PRICE SUPPORTS.** Sen. Williams, Del., criticized price support payments to large producers, stated that two large operators "received from the Government in support of their 1957 crops over five times as much as the total amount of price support received by all the farmers of the State of Delaware on all the crops they produced in 2 years - 1956 and 1957," and inserted a table listing price support payments made last year to certain large producers. pp. 2541-2
- 2. SCHOOL LUNCH.** Sen. Wiley expressed his disappointment "at the inadequacy of funds in the 1960 budget for carrying on and expanding the school lunch program, and stated that he would propose legislation to attempt to assure that at least a \$155 million level is provided for continuation and expansion of the school-lunch program for the next fiscal year. p. 2537
- 3. ELECTRIFICATION; WATER RESOURCES.** Sen. Kefauver inserted a Tenn. Legislature resolution "recommending that the report prepared by the U. S. Chamber of Commerce for disposal of the Tennessee Valley Authority, be rejected and condemned as unsound, unfair, and impractical." p. 2522

4. PERSONNEL. Sen. Humphrey inserted his address before the 11th annual Arthur Flemming awards luncheon honoring 10 outstanding young men in the Federal Government. pp. 2534-7
Sen. Neuberger commended the service of Harris Ellsworth as Chairman of the Civil Service Commission, and inserted a newspaper article commending his service. pp. 2539-40
5. INFLATION. Sen. Proxmire inserted the statement of Gardiner Means before the Joint Economic Committee discussing "the consequences of administered prices on the cost of living." pp. 2551-4
6. ADJOURNED until Thurs., Feb. 26. p. 2555

HOUSE

7. COTTON; RICE. The Subcommittees on Rice and Cotton of the Agriculture Committee jointly ordered reported H. R. 3215, to permit the exchange between farms in the same county of cotton and rice acreage allotments. p. D104
8. ORANGES. The Interstate and Foreign Commerce Committee reported without amendment S. 79, to permit continuance of the practice of coloring oranges (H. Rept. 44). p. 2561
9. CROP INSURANCE. Received from this Department a proposed bill to amend the Federal Crop Insurance Act so as to authorize this Department to increase crop insurance premiums to partially or wholly cover administrative expenses; to Agriculture Committee. p. 2560
10. WATERSHEDS. Received from the Budget Bureau a report on plans for works of improvement for the Walnut Creek watershed, Kan. and Nebr., Gray's Creek watershed, Miss., upper Wabash watershed, Ohio, and Salt Creek watershed, Okla.; to Agriculture Committee. p. 2560
11. PERSONNEL. Received from the Commerce Department a proposed bill "To fix the compensation of the General Counsel of the Department of Commerce"; to Post Office and Civil Service Committee. p. 2560
12. SMALL BUSINESS. Received from the Small Business Administration a report reflecting estimated obligations by principal activities of SBA. p. 2560
13. FOREIGN AID. Received from the President a report on the amounts of assistance furnished to Yugoslavia during fiscal year 1958 under the Mutual Security Act. p. 2560

ITEMS IN APPENDIX

14. EDUCATION. Sen. Cooper inserted a speech by Sen. Hill calling for thought and action by our Government both at the local and Federal levels, and by the people of our Nation in the field of education. pp. A1307-9
Sen. Yarborough inserted his speech, "New Challenges to Education." pp. A1317-8
Rep. Michel inserted an editorial, "Our Opinion -- 46,000 Scholarships by the U. S. is Ridiculous," referring to a proposal by Sen. Humphrey. p. A1337
15. FOREIGN AID: SURPLUS COMMODITIES. Rep. McGovern inserted an article praising Public Law 480. pp. A1335-6

AMENDING THE FEDERAL FOOD, DRUG, AND COSMETIC ACT TO
PERMIT THE TEMPORARY LISTING AND CERTIFICATION OF
CITRUS RED NO. 2 FOR COLORING MATURE ORANGES

FEBRUARY 23, 1959.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. ROBERTS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 79]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 79) to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION

The practice of using artificial color to color the skins of fully mature, sound oranges has prevailed in Florida and Texas for many years. Such coloring is necessary because fully mature fruit from those areas in many instances may be greenish and nonuniform in color.

Formerly the coloring material employed was coal-tar color F.D. & C. Red No. 32. Under the provisions of the Federal Food, Drug, and Cosmetic Act this color was certified by the Food and Drug Administration as is authorized by law under provisions that require it to be harmless and suitable for use. In 1955 the Food and Drug Administration developed evidence that F.D. & C. Red No. 32 is not harmless since, under some circumstances and in some quantities, it is capable of causing harm when fed to laboratory animals under properly conducted tests. Because of these findings the Administra-

tion caused the color F.D. & C. Red No. 32 to be removed from the list of colors certifiable for use in foods, which had the effect of prohibiting its use for coloring oranges.

In the 84th Congress legislation was passed, Public Law 672, which provided for the temporary continuation of certification and use of the color previously known as F.D. & C. Red No. 32 solely for the purpose of coloring skins of oranges, it having been determined that this would involve no known danger to the public health. This legislation expressly provided an expiration date of February 28, 1959, or sooner if a harmless substitute were developed and listed. It was implicit in the understandings that, during the period thus allowed, every effort would be made by the interested industries to develop a coal-tar color for use on oranges which would meet the criteria of harmlessness and permit its certification under the Federal Food, Drug, and Cosmetic Act.

The studies undertaken led to the development of the color known as Citrus Red No. 2, which is chemically 1-(2,5-dimethoxyphenylazo)-2 naphthol. The committee has been assured that the toxicity level of Citrus Red No. 2 is significantly lower than that of F.D. & C. Red No. 32.

At feeding levels considerably higher than those required to color oranges, Citrus Red No. 2 can harm test animals; therefore it is not eligible for certification for food use under present law. But in the quantities necessary to color the skin of oranges it is without hazard to man.

In order to provide an available color which will be useful in the coloring of mature oranges upon the expiration of the effective existing law, Public Law 672, this bill provides authorization for the listing and certification under safe tolerances of Citrus Red No. 2 solely for use in coloring mature oranges. It provides that under such quantitative tolerance limitations, and pursuant to regulations to be established by the Department of Health, Education, and Welfare, each batch of such color employed in the coloring of mature oranges shall be certified. Since it will require a period of approximately 60 days for the color Citrus Red No. 2 to be manufactured, certified, and available to orange packers, the bill further provides that the effective date for the termination of Public Law 672 shall be April 30, 1959. This has the effect of extending the period in which the color formerly known as F.D. & C. Red No. 32 may be employed to color oranges 2 months, and thus allow a period for the new color authorized in this bill to become available under the conditions and restrictions heretofore stated.

The committee has concluded from the testimony presented that enactment of this bill will in no wise be detrimental to the public health or introduce into the food supply an unsafe color.

It is specifically provided that the provisions of this bill will become inoperative on August 31, 1961, or before that time if general legislation affecting coloring materials for food is enacted by the Congress. The reason for the time limit is that this is emergency legislation, which will meet the immediate needs of the citrus industry without permanently engrafting on the basic Food, Drug, and Cosmetic Act a new principle of tolerances for coal-tar colors which is not applicable to foods generally. The expiration date has been so fixed as to allow the Congress ample time to consider the application of this principle to all foods.

It is the intention of the committee as soon as feasible to study amendments to the Federal Food, Drug, and Cosmetic Act dealing with color additives generally, since the need for such legislation has been amply demonstrated to this committee.

DEPARTMENTAL REPORTS

The reports of the Secretary of Health, Education, and Welfare and the Director of the Bureau of the Budget on H.R. 4194 (which is identical with S. 79) are as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., February 16, 1959.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of February 10, 1959, for a report on H.R. 4194, a bill to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances. (We understand that this bill, and your request for a report thereon, are intended to supersede H.R. 1814 and the request for a report on that bill.)

H.R. 4194 is a companion bill to, and identical with, S. 79 as passed by the Senate. For the reasons stated below, we would have no objection to enactment of either bill.

As you know, March 1, 1959, is the expiration date of emergency legislation (Public Law 672, 84th Cong.), enacted in 1956, which, notwithstanding the general provisions of the Federal Food, Drug, and Cosmetic Act, permits the temporary continued use, on mature oranges, of a coal-tar color which was formerly on the food color list established under the act but which is now, because of its toxicity, only on the list of colors certified for use in drugs and cosmetics intended for external application to the human body. (The color, formerly known as F.D. & C. Red 32, is now listed as External D. & C. Red 14.) The provisions of Public Law 672, 84th Congress, did not require us to attempt to establish a tolerance limitation to govern the use of that color on oranges during the emergency period, nor would the available data have furnished a scientific basis for the establishment of such a tolerance.

The present bill (H.R. 4194) is designed as temporary emergency legislation to permit continuation of the industry's coloring practice for mature oranges (primarily oranges from Florida and Texas), but only with a recently developed substitute coal-tar color, Citrus Red No. 2 (which is known chemically as 1-(2,3-dimethoxyphenylazo)-2-naphthol), and subject to regulations prescribing the conditions, including tolerance limitations, under which the color may be safely used. The authority for use of the new color, when listed, would expire upon the enactment of general legislation for the listing and certification of food colors under safe tolerances, but in no event later than September 1, 1961. In order to allow a short transition from

the old to the new color, the bill would also extend for 61 days, i.e., from March 1 to May 1, 1959, the cutoff date fixed by Public Law 672 for the use of Red 32.

Under the provisions of the present law, a food is deemed to be adulterated if it bears or contains a coal-tar color, unless the color is from a batch certified in accordance with regulations issued under section 406(b) of the act. Section 406(b) permits the listing and certification of coal-tar colors for use in or on food only if the color is "harmless and suitable for use in food." This provision precludes us from listing any color for use in or on food unless the color is a harmless substance, i.e., without potentiality of harm when permitted to be used in foods generally without restriction. We have no power to fix tolerances for toxic coal-tar colors so as to permit their safe use in or on food, or to limit the use of coal-tar colors to specified foods or to a specified manner of application to food. For this reason, and on the basis of this view of the law, we were constrained to "delist" for food use F.D. & C. Red 32, a color which had long been used in coloring a large part of the Florida and Texas mature orange crop and which had theretofore been on the list on the erroneous assumption that the color satisfied the criteria above mentioned. The segment of the orange industry involved, and makers of this color challenged our interpretation of the law in the courts, but the Supreme Court, on December 15, 1958, sustained the delisting order and our view of the law (*Flemming v. Florida Citrus Exchange*, 79 Sup. Ct. 160 (decided December 15, 1958)).

The "delisting" of this color, the only one known at that time to be suitable for the purpose, created an emergency for the segment of the orange industry involved because large quantities of Florida and Texas oranges are green in color when harvested in their mature state, and because such oranges, when not artificially colored, have met strong consumer resistance and the coloring practice had thus become an economic necessity for this part of the industry. In view of these facts and the fact that the evidence so far available did not establish any likelihood of injury from such use of this color, Congress enacted the above-mentioned emergency legislation (Public Law 672), with a view to giving the industry a reasonable period of time to make tests and studies necessary to determine the precise toxicity of Red 32 and to develop a harmless substitute if possible. As above mentioned, the industry, since then, has developed a proposed substitute coal-tar color known as Citrus Red No. 2, which, although not a "harmless" color which could be listed under the present act for use in or on food, has lower toxicity and at the same time greater tinctorial power than Red 32. On the basis of the data furnished us by the industry, we believe that Citrus Red No. 2 is suitable for use in coloring the skins of oranges and that, if authorized, we would be able to establish a safe tolerance for such use.

In our report of June 27, 1958, on H.R. 8945 (a comprehensive color bill), we favored general legislation embodying the principle of allowing the safe use of added toxic colors in foods, drugs, and cosmetics under proper safeguards, including appropriate tolerance limitations, and subject to properly framed transitional provisions. (An extra copy of our report on H. R. 8945 is herewith enclosed for your convenience.) While, as we have previously indicated, we would regard permanent legislation embodying this principle only for a specific use of color on a single food unwise and discriminatory, we

see no valid objection to the temporary legislation now proposed, which would, consistently with protection of the public health, and without prejudice to congressional consideration of general color legislation, tide the industry over the emergency presented by the imminent expiration of Public Law 672.

The proposal of the bill to extend the cutoff date for the use of Red 32 under Public Law 672 until May 1 is explained by the fact, mentioned in the Senate report on S. 79 (S. Rept. No. 50), that it would require about 60 days, after enactment of the bill, for the new color (Citrus Red No. 2) to be manufactured, certified, and made available to orange packers. This short extension of Public Law 672 gives no ground for concern.

Hence, as above stated, the Department would not object to enactment of the House or Senate bill (H.R. 4194 or S. 79).

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

ARTHUR S. FLEMMING, *Secretary.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., June 27, 1958.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for a report on H.R. 8945, a bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to prohibit the use in food, drugs, and cosmetics of color additives which have not been determined suitable and harmless for such use.

The bill would, through substantial changes in the Federal Food, Drug, and Cosmetic Act, broaden and make flexible the Secretary's authority relating to the regulation and certification of colors for safe use in or on foods, drugs, and cosmetics.

I. COMPARISON OF EXISTING LAW AND THE BILL

1. *Scope of coverage*

The provisions of existing law relating to the listing and certification of colors are limited to so-called coal-tar colors. The term "coal-tar color," however, has been interpreted to apply, generally, not only to dyes which are coal-tar derivatives, but also to synthetic dyes so related in their chemical structure to a coal-tar constituent as to be capable of derivation therefrom even when not actually so derived. The present bill would embrace all color additives, whether or not synthesized and whether or not capable of derivation from a coal-tar constituent.

2. *Restrictions as to use of toxic colors—Exemptions from certification requirement*

The present law, more fully explained below, simply requires the Secretary to promulgate regulations providing for "the listing" of coal-tar colors "harmless and suitable for use in food", or in drugs or cosmetics, and providing for the certification of batches of such colors, with or without "harmless" diluents (secs. 406(b); 504; 604). A food, drug, or cosmetic (other than a hair dye) is deemed to be adulterated

if it bears or contains a coal-tar color other than one from such a certified batch (secs. 402(c); 501(4); 601(e)).

The bill (1) would require "separate listing" of color additives which are suitable for use in food, drugs, and cosmetics, and which are "harmless *under the conditions of use specified in such listing*"; (2) would expressly authorize the Secretary to establish *maximum tolerance* for the use of any listed color additive in or on different foods, drugs, or cosmetics; and (3) would require not only that the regulations provide for the certification of listed color additives, "with or without diluents, [but also] *for the exemption from certification of color additives the certification of which is not necessary to protect the public health.*" [Emphasis ours.] The above-mentioned provisions of the present act relating to adulteration would be changed to correspond with these changes.

As we interpret the bill, the Secretary would, among other things, not only be authorized to establish tolerances for toxic color additives and to limit the manner of their use—e.g., to external use—in or on different foods (or drugs or cosmetics), but could permit the use of a color for one food, drug, or cosmetic and exclude it altogether from others. Thus, on the basis of the data before him, the Secretary might decide to list a color additive as harmless for use on the skin of mature oranges—subject to a tolerance if he thinks it necessary—and bar it for any other use.

The bill would not affect the temporary proviso to section 402(c), enacted by Public Law 672, 84th Congress, with respect to the coloring of oranges. It also would leave intact the present provisions of the act which establish the procedures (including hearing and judicial review) for the issuance, amendment, or repeal of regulations on colors, and would, as at present, provide for fees to maintain the listing and certification service (secs. 701(e)–(g); 706).

Under present law, as we read it, we do not have the kind of latitude afforded by this bill. We can, in our view, list a color as harmless for use in food, in drugs, or in cosmetics only where there is no possibility of adverse physiological effect on the consumer from its use, regardless of the concentration or manner, or the number of commodities, or (except as noted below) the kinds of commodities, in which the food, drug, or cosmetic manufacturer might choose to employ the color. Thus, if laboratory tests show a color to have any toxic effect when ingested, we cannot list it as harmless for any use in which there is a possibility that some amount of the color, however minute, might be ingested by the consumer or come into contact with mucous membrane, though we can and do list such a color for a use (particularly in drugs or cosmetics intended only for external application to the body) which involves no possibility of its ingestion and where the color, regardless of amount or concentration used, is harmless for such noninternal use.

Our interpretation, recently challenged in the courts, is now in litigation. In one case, our action in "delisting" three coal-tar colors was sustained by the Court of Appeals for the Second Circuit on the basis of a record which demonstrated the toxicity of these colors. The court—without deciding whether we had basic authority to fix safe tolerances for toxic coal-tar colors—held that we could not be required to do so because (a) on the record, there was no showing of what (if any) level of use of the delisted colors would be harmless, (b) the Secretary should in no event be required by a court to permit the use of toxic colors "without the clearest and most uncompromising

evidence that usage at certain levels was absolutely safe" in the light of the consumer's total diet, and (c) the court could see no possibility of limiting the consumer's actual intake of such colors (if permitted) to the consumption level estimated in setting a tolerance (*Certified Color Industry Committee v. Secretary of Health, Education, and Welfare*, 256 F. 2d 866 (1956)).

In another case, however—which involved the same "delisting" action and hearing record, though the petitioners were concerned only with the use of one of the delisted dyes in coloring oranges—the Court of Appeals for the Fifth Circuit decided that we had authority, in the listing and certification of colors, to differentiate between one food and another and one food use and another, and that in the case of food we were required to determine and establish safe tolerances for a particular food use—in this case, coloring of the skins of oranges—where the marketability of the food would otherwise be seriously prejudiced and an important segment of the industry depended upon the marketing of the colored commodity. The holding as to our tolerance authority and duty was bottomed on the view that in such a case the addition of color was "required in the production" of the food within the meaning of section 406 (a) of the act, which provides that a poisonous or deleterious food additive shall be deemed to be unsafe unless "required in the production" of the food or unavoidable by good manufacturing practice and that, if it is so required or unavoidable, the Secretary shall establish safe tolerances therefor (*Florida Citrus Exchange v. Folsom*, 246 F. 2d 850 (1957)). This case is now pending for review in the Supreme Court.

3. *Effective date and grandfather clause*

The bill would become effective 6 months after the date of enactment. However, any color additive in use immediately prior to the date of enactment "in accordance with a sanction or approval previously granted" would be deemed to have been listed as suitable for use at the levels of use prevailing when the bill was enacted unless and until such presumed listing is "modified" by the Secretary.

II. COMMENT

We believe that, while the bill should be modified in certain substantive and technical respects, the concepts of the permanent provisions of the bill (as distinguished from the grandfather clause) are basically sound in view of (a) the inflexibility of the present law; (b) the resulting threat to the continued availability of color additives suitable for use in (or on) foods, drugs, and cosmetics in which they have long been used; (c) the fact that scientific procedures are available for determining whether such color additives may be safely used and, if so, in which commodities and under what conditions (including tolerance limitations); and (d) the anomaly of the present law in establishing different ground rules as between so-called coal-tar colors and other additives. It seems desirable to set forth the reasons for these conclusions.

1. *The problem*

The use of synthetic or other substances in food, drugs, and cosmetics for the purpose of imparting an attractive or distinguishing color to the commodity or, in the case of certain cosmetics, for the purpose of enhancing the appearance of the human body through

added color, has long been established and is growing. It is widely accepted, and in many cases consciously demanded, by the consuming public. In the case of food, for example, synthetic color subject to listing and certification under the act is used in (or on) a wide range of commodities, including butter, margarine, oranges, sausage casings, cakes, cookies, pies, bread, processed cheese, spreads, canned and frozen vegetables, confectionery, ice cream, gelatin desserts, puddings, soft drinks, condiments, soups, pickles, prepared dishes, etc. Many housewives also purchase certified color directly and use it in their kitchen in making cakes, icings, desserts, and milk drinks, canning fruit, etc. And before the special tax on colored margarine was repealed, housewives often purchased the color separately and went to the trouble of mixing it with uncolored margarine. The Food and Drug Administration, in the fiscal year 1957, certified 1,581,000 pounds of primary colors listed as suitable and harmless for use in food, a quantity sufficient to color over 1 billion pounds of food. Color has come to be an economic necessity in the marketing of a variety of foods and other commodities covered by the act.

This development has, for more than half a century—i.e., since the enactment of the Pure Food and Drugs Act of 1906—taken place in the shelter of a national policy of allowing the use of synthetic colors, subject only to safeguards considered necessary to protect the public health and prevent deception of consumers. The provisions of the present act (enacted in 1938), prohibiting the use of so-called coal-tar colors other than “harmless” certified colors, were designed to give legislative sanction to, and to extend to drugs and cosmetics, a long-standing administrative practice in certifying “harmless” colors for food. While the congressional committees recognized that most so-called coal-tar colors were toxic—which was the reason for singling them out for special control—it was thought—and this is the central premise of these provisions—that an adequate supply of “harmless” ones, i.e., those “demonstrated to be without adverse physiological action,” had been developed under this administrative practice and, presumably, would continue to be developed as needed; hence, the stringency of the law as we read it (S. Rept. No. 361, 74th Cong. See also, H. Rept. No. 2139, 75th Cong.) However, present-day scientific methods are proving this premise to have been largely illusory.

Within the past few years, new scientific testing methods have shown that some of the coal-tar colors which were permitted in food because earlier testing showed that they were harmless, are capable of causing harm when ingested. Three of these, as above mentioned, have therefore been removed from the list of permitted food colors and have been transferred to the list restricted to use in externally applied drugs and cosmetics, and proceedings have been commenced to remove four more, including a yellow color commonly used in margarine. These tests, conducted with a view to determining whether the colors are themselves harmless, were not aimed at determining, and hence were not adequate to show, whether we could establish for such colors safe levels of use in or on particular foods, drugs, or cosmetics, and, if so, whether their actual use exceeded those levels. As these modern tests are applied to other colors, it is not unlikely that more and more of them will be found to be toxic and thus will have to be removed from the list.

This process could eventually pose a serious threat to established coloring practices in the food, drug, and cosmetic fields. The threat is already present in the case of food colors. There were only 19 primary coal-tar colors listed for food use when the delisting process began. These have now been reduced to 16 (subject to the use on oranges permitted under court order and under temporary legislation) and would be reduced to 12 if the present proceedings on 4 other colors should end in "delisting." While acceptable substitute mixtures of still listed primary colors have been developed for most (not all) food uses in which the three delisted colors were employed, substitution will obviously become more and more difficult as additional primary colors are taken off the list. Nor has it been found technically feasible, in most of these cases, to develop satisfactory non-coal-tar color substitutes.

In this situation, a legislative reexamination of the entire subject of color additives for use in the food, drug, and cosmetic supply of the country is indicated, and we should, in our view, be given new and clear statutory directives as to national policy in this field and as to our duty in carrying out that policy.

The process of judicial interpretation, even if it were finally to establish that we can or must fix tolerances for toxic colors, is not likely to lend itself in this instance to the establishment of the kind of rational scheme—with appropriate controls and with criteria for allocating the aggregate tolerance for a color among different commodities where necessary—which, we believe, would be necessary if coal-tar colors or other color additives were to be admitted to the food, drug, and cosmetic supply under tolerances established by this Department. In this connection, it should also be noted that the decision of the Court of Appeals for the Fifth Circuit in the orange color case is based on a provision of the act relating to food additives (sec. 406(a)) which has no counterpart in the drug and cosmetic provisions of the act. Moreover, legislation can also relieve, through suitable transitional provisions, the special consumer protection problem caused by the fact that at the present rate of testing in the Food and Drug Administration's laboratories it would take many years to complete the task of reexamining the toxicity of all coal-tar colors now on the list. (See the discussion, below, of the grandfather clause of the bill.)

2. Basic approach of bill

The question, then, as we see it, is not so much whether the law should be changed, but, rather, what changes should be made so as, on the one hand, to avoid upsetting needlessly the established coloring practices and, on the other hand, to protect fully the public health and the consumer's interest in honesty and fair dealing.

(a) *Scope of coverage.*—We do not believe that the present distinction between coal tar colors, so-called, and other color additives, whether synthetic or extracted from natural sources, is sound. The assumption that a color additive is necessarily safe when extracted from a plant, or when synthesized with a chemical structure which will not bring it under the term "coal-tar color," whereas a so-called coal tar color is safe only when subjected to special restrictions, is not scientifically tenable. We, therefore, believe that the same ground rules should apply to non-coal-tar color additives for food,

drugs, and cosmetics as are applied to coal tar colors. In this respect the bill is therefore soundly conceived. (Pending enactment of color-additive legislation, food additives which are non-coal-tar colors should, of course, continue to be included in the proposed food additive legislation. See H.R. 6747.)

(b) *Tolerances and other specifications of conditions of use of colors.*— There are few substances which are wholly inert and without any physiological effect, beneficial or harmful, when ingested by man or animal even in "normal" quantity. To the toxicologist, moreover "harmlessness" in the abstract is an unrealistic concept, for it is one of the cardinal principles of toxicology that every substance has a toxic dose, though that does may in actual practice never be reached. This, of course, does not mean that public health protection requires a tolerance limitation for every substance added to food. And it may well be true that certain color additives have such properties, or are suitable and intended for use in such limited circumstances, that it would be entirely safe to list them for use without quantitative restraint, at least for given uses, without establishment of a tolerance. In such cases we should be authorized to admit such colors for use without being required to establish a tolerance, though we would wish to be able to prescribe other conditions of use.

We are satisfied, however, that many color additives, though useful and presumably capable of safe use at given levels, are sufficiently toxic to give no assurance of safety in actual use in the absence of a governing tolerance limitation, since in the case of such colors individual food processors might otherwise, out of ignorance or carelessness, exceed the safe limit. This is true of all the colors we have "delisted," or have so far proposed to delist, for food use. And the more toxic the color, the more this is true. As already indicated, we are likewise satisfied that, unless such colors are admitted under safe tolerances, the adequacy of the supply for continuation of established coloring practices will be in jeopardy. In this setting, a committee of recognized scientists, appointed by the National Academy of Sciences to review the coal tar color research program of the Food and Drug Administration, said in 1956: "This committee feels compelled to indicate that certification of a compound as 'harmless and suitable for use' in food, drug, and cosmetics, as required under present law, is unrealistic, unless the level of use is specified." It is not unreasonable to suppose that if Congress, when enacting the present act, had been aware that it was acting on a false premise in assuming that the color sections of the act were sufficient to assure an adequate supply of safe color, it would have permitted the establishment of tolerances under proper safeguards.

We are, therefore, in accord with the proposal that we be permitted to admit colors for use under appropriate tolerance and other prescribed conditions of use in specified foods, drugs, and cosmetics. In this connection, it will be recalled that, in our proposal on pretesting of food additives (H.R. 6747), we conceded the desirability of permitting per se toxic additives in the food supply under safe tolerances if they have functional value, instead of limiting such additives to situations where they are required in production or are unavoidable by good manufacturing practice. In using the term "functional value," we did not intend to exclude nondeceptive additives designed for eye appeal, any more than additives intended for gustatory appeal.

(c) *Certification of colors—Exemptions.*—While providing for certification of batches of color, as in the case of existing law, the bill would permit us to grant exemptions where certification is not necessary to protect the public health. The present requirement of certification for coal-tar colors is intended to assure food processors and housewives that the color is free from toxic impurities and otherwise complies with regulations defining the color's identity. We believe that power to exempt colors from the certification requirement is desirable, especially if the coverage of the law is broadened to include all types of color additives.

III. PRINCIPAL RECOMMENDATIONS FOR IMPROVEMENT OF BILL

While, as above shown, we agree in principle with the concepts embodied in the permanent provisions of the bill, we believe that the bill is in need of material revision in a number of respects.

1. *Grandfather clause*

(a) *Listed colors.*—This provision of the bill (sec. 11(b)), while not altogether clear, would apparently have the effect of exempting from the bill preexisting uses and levels of use of coal-tar colors which are on the approved list at the time of enactment of the bill, until the Department has been able to do the necessary scientific work to establish tolerances and properly list them. The Food and Drug Administration estimates that completion of its present retesting work on all listed coal-tar colors at the current rate of testing in its laboratories would take about 25 years, even though these tests are not conducted with a view to the establishment of tolerances. Evaluation of the listed food colors alone, on which considerable work has already been done and which are relatively few in number, is expected to take at least 7 to 8 years at the current rate. Tests adequate for determining the precise toxicity of all these colors with a view to the establishment of tolerances would, of course, take as long or longer.

We, therefore, believe that in its present form this provision is not compatible with adequate protection of the public health. Industry, we believe, should at least share the task of retesting, thereby greatly accelerating its completion. We would therefore recommend that the bill be modified so as to require all the colors now on the permitted list to be reexamined and, unless existing data establish their toxicity in a reliable way, retested within a reasonable period of time by industry to establish satisfactory proof of the precise toxic potential of each color, so that the levels at which the colors may safely be used in food, drugs, or cosmetics can be set. Our food additives bill (H.R. 6747) could furnish a guide for what is a "reasonable period."

Moreover, in view of the many uses for which listed colors are now employed, the probable toxicity of many of them, and the long time required for adequate retesting by the Food and Drug Administration at its present rate, enactment of the grandfather clause in its present form would, for many years to come, so devitalize the health protective aspects of the permanent provisions of the bill as to cast serious doubt on the acceptability of the bill as a whole, even if the bill were otherwise modified in accordance with our recommendations. Our suggestion for modification of the grandfather clause should therefore be considered as integrally and inseparably related to our position on the bill as a whole.

(b) *Other color additives already in use.*—With respect to color additives which are not coal-tar colors, and which were in commercial use prior to January 1, 1958, we likewise suggest that a reasonable period be allowed for compliance with the bill. Such period, we believe, should follow the one contained in the grandfather clause of H.R. 6747, less any part of the period already elapsed under H.R. 6747 in the event of its prior enactment.

2. *Related substances*

The bill should be clarified by granting the Department specific authority, in listing and setting a tolerance for a color, to consider the additive effect of chemically or pharmacologically related substances in the diet.

3. *Antideception provision*

Added color, especially in the case of food, often lends itself to deception. The bill should expressly forbid the listing of a color for a use which will promote deception of the consumer or violate any provision of the basic act. In the case of new uses, the burden should be on the applicant for listing to satisfy the Secretary that it will not promote deception.

4. *Barring violative colors from commerce—Verification of distribution*

In order to facilitate enforcement, we believe that the bill should be amended so as to make contraband any color additive which is marketed in interstate commerce for use in food or drugs, or for use in or as a cosmetic, if such color additive is not listed or certified (when required) for such use or if, in the case of a listed color additive, such additive or its packaging or labeling is not in conformity with requirements of the applicable regulation. It seems desirable to authorize the Secretary expressly to establish such packaging and labeling requirements instead of leaving this to implication. Also, we believe that the requirement, now contained in regulations, that color manufacturers maintain and afford access to records of disposal of listed colors should be expressly provided for by the bill.

5. *Allocation of aggregate tolerance to one or more commodities*

The bill, as we interpret it, authorizes the Secretary to decide which foods, drugs, or cosmetics may bear a color and in what amounts. A situation may arise whereby the entire safe tolerance of a particular color is used in one type of food. This would exclude its use on all other types of food until the former use has been delisted. Conceivably this could cause considerable difficulty. In the case of drugs and cosmetics, the bill lays down no criteria to guide the Secretary on how to allocate the supply of a color as between one commodity and others for which it is suitable and desired. Even in the case of food, the bill is not clear. It states that the Secretary may provide for different tolerances for the same color additive in or on different foods, "depending upon the relative importance of each color additive to the several foods in which it is used and the relative significance of those several foods in the human diet." We hope that the hearings will elucidate the intent of this phrase and, perhaps, develop specifications which will be less difficult to apply. Moreover, we hope that, at least in general, the allocation of a limited tolerance as between two or more color uses originating after enactment of the

bill, or as between a use antedating the bill and a subsequently proposed use, can be based on a first-come, first-served basis.

6. *Other improvements*

In order to expedite this report, we are not commenting at this time upon a number of other revisions, of a subordinate or purely technical character, which we believe to be desirable. Such comment will be submitted at a later stage if desired.

IV. COST

Enactment of the bill would require a material expansion of enforcement and educational activity on colors to afford consumer protection equivalent to that available today. While the cost of the listing and certification service would be defrayed out of fees (sec. 10 of the bill) as at present, the cost of enforcement and education activities would necessarily have to come from appropriations out of general revenues. This additional cost is estimated, for the first year, to be about \$825,000.

Under the present certification system, the food and drug inspector need only determine that the colors being used in a food plant are certified, in order to assure himself that the law is being complied with. If known poisonous colors are used with tolerance limitations, he will have to determine not only whether the color is certified, but also the level at which it is employed, a determination which will have to be checked by periodic laboratory examination of samples of foods, drugs, and cosmetics. According to our best estimates, a minimum control at the Federal level under the tolerance-setting procedure would require approximately 75 additional employees (50 inspectors and 25 analysts).

V. CONCLUSION

To summarize: While we cannot support the bill, and especially the grandfather clause, in its present form, we favor the basic principles of the bill and would favor its enactment if modified along the above-suggested lines. We should be glad to submit such technical and other assistance to that end as the committee may desire.

The Bureau of the Budget, while perceiving no objection to the submission of this report, advises that, in the event of enactment of the bill, the level of appropriations to be requested in the President's budget would be determined in the light of broad budgetary and program considerations then prevailing.

Sincerely yours,

ELLIOTT L. RICHARDSON,
Assistant Secretary.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., February 19, 1959.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

MY DEAR MR. CHAIRMAN: This is in reply to your request of February 10, 1959, for the views of the Bureau of the Budget on H.R. 4194, a bill to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

H.R. 4194 is a companion bill to, and identical with, S. 79 as passed by the Senate. We assume that your request for a report on H.R. 4194 supersedes your request of January 30, 1959, for a report on H.R. 1814.

This bill is designed to permit continuation for a specified temporary period of the industry's coloring practices for mature oranges, a practice which would otherwise be terminated after March 1, 1959, under the terms of the Food, Drug, and Cosmetic Act, as amended by Public Law 672, 84th Congress. Unlike Public Law 672, which authorized the use of the color Red 32, H.R. 4194 would authorize the use of a substitute coal-tar color, Citrus Red No. 2. The new legislation would set as the deadline for the use of the color Citrus Red No. 2 either September 1, 1961, or the date of the enactment of general legislation for the testing and certification of food color additives under safe tolerances, whichever is earlier. Also, in order to allow a short transition period from the old to the new color, the bill would extend by 61 days, i.e., from March 1, 1959, to May 1, 1959, the termination date fixed by Public Law 672 for the use of Red 32.

In general, legislation of a special character seeking to accommodate a general provision of existing law to the special needs of a single commodity should be avoided if possible. The subject bill, however, would set a deadline on the authority to color mature oranges with coal-tar colors, as noted above. This bill also has another advantage over earlier proposed legislation in that it authorizes the setting of safe tolerances for the use on oranges of the permitted coal-tar color.

In view of the foregoing considerations, especially in regard to the temporary nature of this legislation to meet a specific emergency problem, the Bureau of the Budget concurs with the Department of Health, Education, and Welfare in offering no objection to the enactment of H. R. 4194.

Sincerely yours

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as passed by the Senate, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 402(C) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

SEC. 402. A food shall be deemed to be adulterated—

(a) * * *

(b) * * *

(c) If it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 406: *Provided*, That this paragraph shall not apply to citrus fruit bearing or containing a coal-tar color if application for listing of such color has been made under this Act and such application has not been acted on by the Secretary, if such color was commonly used prior to the enactment of this Act for the purpose of coloring citrus fruit: *Provided further*, That this paragraph shall not apply to oranges meeting minimum maturity standards established by or under the laws of the States in which the oranges were grown and not intended for processing (other than oranges designated by the trade as "packing house elimination"), the skins of which have been colored at any time prior to [March 1, 1959,] *May 1, 1959*, with the coal-tar color certified prior to the enactment of this proviso as F.D. & C. Red 32, or certified after such enactment as External D. & C. Red 14 in accordance with section 21, Code of Federal Regulations, part 9: [And provided further, That the preceding proviso shall have no further effect if prior to March 1, 1959, another coal-tar color suitable for coloring oranges is listed under section 406.] *And provided further*, That without regard to the requirements of sections 406(b) and 701(e), the Secretary shall promptly establish, and may from time to time amend, regulations (1) prescribing the conditions (including quantitative tolerance limitations) under which the coal-tar color known as Citrus Red No. 2 (more particularly to be defined in such regulations) may be safely used in coloring the skins of oranges which are not intended or used for processing (or, if so used, are oranges designated in the trade as "packing house elimination"), and which meet minimum maturity standards established by or under the laws of the States in which the oranges are grown, (2) providing for separately listing such color solely for such use on such oranges, and (3) providing for the certification of batches of such color, with or without harmless diluents, for such restricted use; and such oranges, if colored prior to September 1, 1961, and to the enactment by the Congress (subsequent to the date of enactment of this proviso) of general legislation for the listing and certification of food color additives under safe tolerances, in conformity with this proviso and such regulations, with Citrus Red No. 2 from a batch certified in accordance with such regulations, shall not be deemed to be adulterated within the meaning of this paragraph.

Union Calendar No. 13

86TH CONGRESS
1ST SESSION

S. 79

[Report No. 44]

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1959

Referred to the Committee on Interstate and Foreign Commerce

FEBRUARY 23, 1959

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

AN ACT

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That paragraph (c) of section 402 of the Federal Food,
4 Drug, and Cosmetic Act is amended by repealing the second
5 and third provisos to such paragraph, and by inserting before
6 the period at the end of such paragraph a new proviso as

1 follows: "*Provided further*, That, without regard to the re-
2 quirements of sections 406 (b) and 701 (e), the Secretary
3 shall promptly establish, and may from time to time amend,
4 regulations (1) prescribing the conditions (including quanti-
5 tative tolerance limitations) under which the coal-tar color
6 known as Citrus Red No. 2 (more particularly to be defined
7 in such regulations) may be safely used in coloring the skins
8 of oranges which are not intended or used for processing
9 (or, if so used, are oranges designated in the trade as pack-
10 ing house elimination), and which meet minimum maturity
11 standards established by or under the laws of the States in
12 which the oranges are grown, (2) providing for separately
13 listing such color solely for such use on such oranges, and
14 (3) providing for the certification of batches of such color,
15 with or without harmless diluents, for such restricted use;
16 and such oranges, if colored prior to the enactment by the
17 Congress (subsequent to the date of enactment of this pro-
18 viso) of general legislation for the listing and certification of
19 food color additives under safe tolerances, in conformity
20 with this proviso and such regulations, with Citrus Red No. 2
21 from a batch certified in accordance with such regulations,
22 shall not be deemed to be adulterated within the meaning
23 of this paragraph."

24 SEC. 2. This Act shall take effect upon the date of enact-
25 ment, except that the repeal of the second proviso of section

1 402 (c) of the Federal Food, Drug, and Cosmetic Act shall
2 not become effective with respect to oranges the skins of
3 which are colored before March 1, 1959, in accordance with
4 such proviso.

AN ACT

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

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March 2, 1959

serted a letter and resolution he had received opposing "the recommendations of President Eisenhower for the elimination of Federal aids for vocational education beginning July 1, 1960." pp. 2767-8

17. ADJOURNED until Thurs., Mar. 5. p. 2834

HOUSE

18. APPROPRIATIONS. Received from the President supplemental appropriation estimates for the fiscal year 1959 (H. Doc. 90); to Appropriations Committee. p. 2856

These estimates provide for Pay Act costs for appropriation items not covered in H. Doc. 58 (See Digest No. 23). Estimates included for the Department of Agriculture provide for Pay Act costs for the following items, to be derived by transfer from the 1959 appropriation for "Conservation reserve program":

- Farmer Cooperative Service, \$42,000;
- Soil Conservation Service (Conservation operations), \$6,424,000;
- Foreign Agricultural Service, \$257,800;
- Commodity Exchange Authority, \$68,000;
- Rural Electrification Administration, \$613,000;
- Farmers Home Administration, \$2,210,500;
- Office of General Counsel, \$267,500;
- Office of the Secretary, \$207,505; and
- Library, \$62,600.

In addition, (a) an increase of \$930,000 is proposed for the Federal Crop Insurance Corporation Fund, in the limitation upon the amount which may be paid from premium income for administrative and operating expenses, and (b) general language is proposed increasing expenditure and transfer limitations to the extent necessary to meet increased pay costs (covering a \$77,000 increase for Agricultural Research Service, "Diseases of Animals and Poultry," and a \$111,926 increase for Commodity Stabilization Service, "Sugar Act Program").

19. POSTAL SERVICE. Passed as reported H. R. 2339, to revise, codify, and enact into law title 39 of the United States Code entitled "The Postal Service." p. 2837

20. ORANGES. The Interstate and Foreign Commerce Committee reported with ^{out} amendment S. 79, to amend the Federal Food, Drug and Cosmetic Act to permit the temporary certification of Citrus: Red No. 2 for coloring mature oranges under tolerances found safe by HEW (H. Rept. 88). ^{Earlier} ~~Later~~, the bill was recommitted at the request of Rep. Harris to have the bill corrected. pp. 2839; ~~2857, 2871~~

21. FARM PROGRAM. Rep. Mathews stated that farmers do not get a fair press, that USDA appropriations are wrongly interpreted as farm subsidies, that subsidies to business and labor are not emphasized, and defended the price support program. pp. 2845-8

Rep. Hoffman, Mich., praised a constituent who, opposed to Federal regulations concerning farm production, is selling his farm and going to Australia. pp. 2854-5

22. FOREIGN TRADE. Rep. Cooley criticized the Administration for alleged restrictions on the barter program under Public Law 480 as Congress planned it, and stated that these restrictions hindered our effective countering of the Soviet economic offensive. pp. 2848-9

23. WATER PLANTS. Received from Interior a report "pertaining to the construction and operation of saline water demonstration plants." p. 2856
24. HOUSING. The Committee on Banking and Currency reported on Feb. 27 with amendment S. 57, "To extend and amend laws relating to the provision and improvement of housing and the renewal of urban communities" (H. Rept. 86). pp. 2856-7
25. BUDGET. Rep. Mack stated that he received numerous letters in favor of "less extravagant spending." p. 2836
26. NATURAL RESOURCES. The Interior and Insular Affairs Committee reported with amendment H. R. 1776 to exempt employees of the National Outdoor Recreation Resources Review Commission from the Classification Act of 1949 (H. Rept. 87). p. 2857
27. IRRIGATION. The Irrigation and Reclamation Subcommittee of the Interior and Insular Affairs Committee ordered reported to the full committee H. R. 1306, to amend section 2 (b) of the Columbia Basin Project Act to provide water for the State College of Washington, and H. R. 4405, to authorize studies on the feasibility of developing the water resources of the Salt Fork of the Red River in Texas. p. D122
28. PUBLICATIONS; LIBRARIES. H. R. 519, relating to the distribution of Government publications to depository libraries, as reported by the House Administration Committee (see Digest No. 30), includes the following provisions:
Provides that each Government agency shall furnish monthly to the Superintendent of Documents a list of publications, except for certain restricted and administrative publications, which it issued during the previous month that were obtained from sources other than the Government Printing Office; permits Representatives to designate additional depository libraries, up to a total of two, within the areas which they serve; requires Government agencies to furnish the Superintendent of Documents a sufficient number of copies of publications it orders from the Public Printer for distribution to depository libraries; requires Government agencies to bear the expense of printing copies for depository libraries of those publications obtained elsewhere than from the Government Printing Office; authorizes heads of executive departments to designate additional depository libraries within departments based on need, not to exceed the number of major bureaus or divisions in the department; and authorizes not to exceed two regional depository libraries in each State to receive copies of all new and revised Government publications authorized for distribution to depository libraries.

ITEMS IN APPENDIX

29. WATER RESOURCES. Sen. Mansfield inserted Sen. Ellender's recent address before the annual meeting of the New York State Waterways Ass'n. pp. A1569-71
30. BUDGET; EXPENDITURES. Sen. Goldwater inserted his recent address, "The Massive Irresponsibility of the Spenders." pp. A1571-2
Extension of remarks of Rep. Arends stating that his constituent's repeatedly emphasize the importance of balancing the budget. p. A1629
31. ECONOMIC ASSISTANCE. Sen. Kennedy commended and inserted an address by Ambassador Nehru, "The Objectives of International Economic Assistance." pp. A1574-5
Sen. Humphrey inserted Dr. Galbraith's address, "The State of Liberalism." pp. A1604-6

AMENDING THE FEDERAL FOOD, DRUG, AND COSMETIC ACT TO
PERMIT THE TEMPORARY LISTING AND CERTIFICATION OF
CITRUS RED NO. 2 FOR COLORING MATURE ORANGES

MARCH 2, 1959.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. ROBERTS, from the Committee on Interstate and Foreign Commerce, submitted the following

R E P O R T

[To accompany S. 79]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 79) to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION

The practice of using artificial color to color the skins of fully mature, sound oranges has prevailed in Florida and Texas for many years. Such coloring is necessary because fully mature fruit from those areas in many instances may be greenish and nonuniform in color.

Formerly the coloring material employed was coal-tar color F.D. & C. Red No. 32. Under the provisions of the Federal Food, Drug, and Cosmetic Act this color was certified by the Food and Drug Administration as is authorized by law under provisions that require it to be harmless and suitable for use. In 1955 the Food and Drug Administration developed evidence that F.D. & C. Red No. 32 is not harmless since, under some circumstances and in some quantities, it is capable of causing harm when fed to laboratory animals under properly conducted tests. Because of these findings the Administra-

tion caused the color F.D. & C. Red No. 32 to be removed from the list of colors certifiable for use in foods, which had the effect of prohibiting its use for coloring oranges.

In the 84th Congress legislation was passed, Public Law 672, which provided for the temporary continuation of certification and use of the color previously known as F.D. & C. Red No. 32 solely for the purpose of coloring skins of oranges, it having been determined that this would involve no known danger to the public health. This legislation expressly provided an expiration date of February 28, 1959, or sooner if a harmless substitute were developed and listed. It was implicit in the understandings that, during the period thus allowed, every effort would be made by the interested industries to develop a coal-tar color for use on oranges which would meet the criteria of harmlessness and permit its certification under the Federal Food, Drug, and Cosmetic Act.

The studies undertaken led to the development of the color known as Citrus Red No. 2, which is chemically 1-(2,5-dimethoxyphenylazo)-2-naphthol. The committee has been assured that the toxicity level of Citrus Red No. 2 is significantly lower than that of F.D. & C. Red No. 32.

At feeding levels considerably higher than those required to color oranges, Citrus Red No. 2 can harm test animals; therefore it is not eligible for certification for food use under present law. But in the quantities necessary to color the skin of oranges it is without hazard to man.

In order to provide an available color which will be useful in the coloring of mature oranges upon the expiration of the effective existing law, Public Law 672, this bill provides authorization for the listing and certification under safe tolerances of Citrus Red No. 2 solely for use in coloring mature oranges. It provides that under such quantitative tolerance limitations, and pursuant to regulations to be established by the Department of Health, Education, and Welfare, each batch of such color employed in the coloring of mature oranges shall be certified. Since it will require a period of approximately 60 days for the color Citrus Red No. 2 to be manufactured, certified, and available to orange packers, the bill further provides that the effective date for the termination of Public Law 672 shall be April 30, 1959. This has the effect of extending the period in which the color formerly known as F.D. & C. Red No. 32 may be employed to color oranges 2 months, and thus allow a period for the new color authorized in this bill to become available under the conditions and restrictions heretofore stated.

The committee has concluded from the testimony presented that enactment of this bill will in no wise be detrimental to the public health or introduce into the food supply an unsafe color.

It is specifically provided that the provisions of this bill will become inoperative on August 31, 1961, or before that time if general legislation affecting coloring materials for food is enacted by the Congress. The reason for the time limit is that this is emergency legislation, which will meet the immediate needs of the citrus industry without permanently engrafting on the basic Food, Drug, and Cosmetic Act a new principle of tolerances for coal-tar colors which is not applicable to foods generally. The expiration date has been so fixed as to allow the Congress ample time to consider the application of this principle to all foods.

It is the intention of the committee as soon as feasible to study amendments to the Federal Food, Drug, and Cosmetic Act dealing with color additives generally, since the need for such legislation has been amply demonstrated to this committee.

DEPARTMENTAL REPORTS

The reports of the Secretary of Health, Education, and Welfare and the Director of the Bureau of the Budget on H.R. 4194 (which is identical with S. 79) are as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., February 16, 1959.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of February 10, 1959, for a report on H.R. 4194, a bill to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances. (We understand that this bill, and your request for a report thereon, are intended to supersede H.R. 1814 and the request for a report on that bill.)

H.R. 4194 is a companion bill to, and identical with, S. 79 as passed by the Senate. For the reasons stated below, we would have no objection to enactment of either bill.

As you know, March 1, 1959, is the expiration date of emergency legislation (Public Law 672, 84th Cong.), enacted in 1956, which, notwithstanding the general provisions of the Federal Food, Drug, and Cosmetic Act, permits the temporary continued use, on mature oranges, of a coal-tar color which was formerly on the food color list established under the act but which is now, because of its toxicity, only on the list of colors certified for use in drugs and cosmetics intended for external application to the human body. (The color, formerly known as F.D. & C. Red 32, is now listed as External D. & C. Red 14.) The provisions of Public Law 672, 84th Congress, did not require us to attempt to establish a tolerance limitation to govern the use of that color on oranges during the emergency period, nor would the available data have furnished a scientific basis for the establishment of such a tolerance.

The present bill (H.R. 4194) is designed as temporary emergency legislation to permit continuation of the industry's coloring practice for mature oranges (primarily oranges from Florida and Texas), but only with a recently developed substitute coal-tar color, Citrus Red No. 2 (which is known chemically as 1-(2,3-dimethoxyphenylazo)-2 naphthol), and subject to regulations prescribing the conditions, including tolerance limitations, under which the color may be safely used. The authority for use of the new color, when listed, would expire upon the enactment of general legislation for the listing and certification of food colors under safe tolerances, but in no event later than September 1, 1961. In order to allow a short transition from

the old to the new color, the bill would also extend for 61 days, i.e., from March 1 to May 1, 1959, the cutoff date fixed by Public Law 672 for the use of Red 32.

Under the provisions of the present law, a food is deemed to be adulterated if it bears or contains a coal-tar color, unless the color is from a batch certified in accordance with regulations issued under section 406(b) of the act. Section 406(b) permits the listing and certification of coal-tar colors for use in or on food only if the color is "harmless and suitable for use in food." This provision precludes us from listing any color for use in or on food unless the color is a harmless substance, i.e., without potentiality of harm when permitted to be used in foods generally without restriction. We have no power to fix tolerances for toxic coal-tar colors so as to permit their safe use in or on food, or to limit the use of coal-tar colors to specified foods or to a specified manner of application to food. For this reason, and on the basis of this view of the law, we were constrained to "delist" for food use F.D. & C. Red 32, a color which had long been used in coloring a large part of the Florida and Texas mature orange crop and which had theretofore been on the list on the erroneous assumption that the color satisfied the criteria above mentioned. The segment of the orange industry involved, and makers of this color challenged our interpretation of the law in the courts, but the Supreme Court, on December 15, 1958, sustained the delisting order and our view of the law (*Flemming v. Florida Citrus Exchange*, 79 Sup. Ct. 160 (decided December 15, 1958)).

The "delisting" of this color, the only one known at that time to be suitable for the purpose, created an emergency for the segment of the orange industry involved because large quantities of Florida and Texas oranges are green in color when harvested in their mature state, and because such oranges, when not artificially colored, have met strong consumer resistance and the coloring practice had thus become an economic necessity for this part of the industry. In view of these facts and the fact that the evidence so far available did not establish any likelihood of injury from such use of this color, Congress enacted the above-mentioned emergency legislation (Public Law 672), with a view to giving the industry a reasonable period of time to make tests and studies necessary to determine the precise toxicity of Red 32 and to develop a harmless substitute if possible. As above mentioned, the industry, since then, has developed a proposed substitute coal-tar color known as Citrus Red No. 2, which, although not a "harmless" color which could be listed under the present act for use in or on food, has lower toxicity and at the same time greater tinctorial power than Red 32. On the basis of the data furnished us by the industry, we believe that Citrus Red No. 2 is suitable for use in coloring the skins of oranges and that, if authorized, we would be able to establish a safe tolerance for such use.

In our report of June 27, 1958, on H.R. 8945 (a comprehensive color bill), we favored general legislation embodying the principle of allowing the safe use of added toxic colors in foods, drugs, and cosmetics under proper safeguards, including appropriate tolerance limitations, and subject to properly framed transitional provisions. (An extra copy of our report on H. R. 8945 is herewith enclosed for your convenience.) While, as we have previously indicated, we would regard permanent legislation embodying this principle only for a specific use of color on a single food unwise and discriminatory, we

see no valid objection to the temporary legislation now proposed, which would, consistently with protection of the public health, and without prejudice to congressional consideration of general color legislation, tide the industry over the emergency presented by the imminent expiration of Public Law 672.

The proposal of the bill to extend the cutoff date for the use of Red 32 under Public Law 672 until May 1 is explained by the fact, mentioned in the Senate report on S. 79 (S. Rept. No. 50), that it would require about 60 days, after enactment of the bill, for the new color (Citrus Red No. 2) to be manufactured, certified, and made available to orange packers. This short extension of Public Law 672 gives no ground for concern.

Hence, as above stated, the Department would not object to enactment of the House or Senate bill (H.R. 4194 or S. 79).

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

ARTHUR S. FLEMMING, *Secretary*.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., June 27, 1958.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for a report on H.R. 8945, a bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to prohibit the use in food, drugs, and cosmetics of color additives which have not been determined suitable and harmless for such use.

The bill would, through substantial changes in the Federal Food, Drug, and Cosmetic Act, broaden and make flexible the Secretary's authority relating to the regulation and certification of colors for safe use in or on foods, drugs, and cosmetics.

I. COMPARISON OF EXISTING LAW AND THE BILL

1. *Scope of coverage*

The provisions of existing law relating to the listing and certification of colors are limited to so-called coal-tar colors. The term "coal-tar color," however, has been interpreted to apply, generally, not only to dyes which are coal-tar derivatives, but also to synthetic dyes so related in their chemical structure to a coal-tar constituent as to be capable of derivation therefrom even when not actually so derived. The present bill would embrace all color additives, whether or not synthesized and whether or not capable of derivation from a coal-tar constituent.

2. *Restrictions as to use of toxic colors—Exemptions from certification requirement*

The present law, more fully explained below, simply requires the Secretary to promulgate regulations providing for "the listing" of coal-tar colors "harmless and suitable for use in food", or in drugs or cosmetics, and providing for the certification of batches of such colors, with or without "harmless" diluents (secs. 406(b); 504; 604). A food, drug, or cosmetic (other than a hair dye) is deemed to be adulterated

if it bears or contains a coal-tar color other than one from such a certified batch (secs. 402(c); 501(4); 601(e)).

The bill (1) would require "separate listing" of color additives which are suitable for use in food, drugs, and cosmetics, and which are "*harmless under the conditions of use specified in such listing*"; (2) would expressly authorize the Secretary to establish *maximum tolerance* for the use of any listed color additive in or on different foods, drugs, or cosmetics; and (3) would require not only that the regulations provide for the certification of listed color additives, "with or without diluents, [but also] *for the exemption from certification of color additives the certification of which is not necessary to protect the public health.*" [Emphasis ours.] The above-mentioned provisions of the present act relating to adulteration would be changed to correspond with these changes.

As we interpret the bill, the Secretary would, among other things, not only be authorized to establish tolerances for toxic color additives and to limit the manner of their use—e.g., to external use—in or on different foods (or drugs or cosmetics), but could permit the use of a color for one food, drug, or cosmetic and exclude it altogether from others. Thus, on the basis of the data before him, the Secretary might decide to list a color additive as harmless for use on the skin of mature oranges—subject to a tolerance if he thinks it necessary—and bar it for any other use.

The bill would not affect the temporary proviso to section 402(c), enacted by Public Law 672, 84th Congress, with respect to the coloring of oranges. It also would leave intact the present provisions of the act which establish the procedures (including hearing and judicial review) for the issuance, amendment, or repeal of regulations on colors, and would, as at present, provide for fees to maintain the listing and certification service (secs. 701(e)–(g); 706).

Under present law, as we read it, we do not have the kind of latitude afforded by this bill. We can, in our view, list a color as harmless for use in food, in drugs, or in cosmetics only where there is no possibility of adverse physiological effect on the consumer from its use, regardless of the concentration or manner, or the number of commodities, or (except as noted below) the kinds of commodities, in which the food, drug, or cosmetic manufacturer might choose to employ the color. Thus, if laboratory tests show a color to have any toxic effect when ingested, we cannot list it as harmless for any use in which there is a possibility that some amount of the color, however minute, might be ingested by the consumer or come into contact with mucous membrane, though we can and do list such a color for a use (particularly in drugs or cosmetics intended only for external application to the body) which involves no possibility of its ingestion and where the color, regardless of amount or concentration used, is harmless for such noninternal use.

Our interpretation, recently challenged in the courts, is now in litigation. In one case, our action in "delisting" three coal-tar colors was sustained by the Court of Appeals for the Second Circuit on the basis of a record which demonstrated the toxicity of these colors. The court—without deciding whether we had basic authority to fix safe tolerances for toxic coal-tar colors—held that we could not be required to do so because (a) on the record, there was no showing of what (if any) level of use of the delisted colors would be harmless, (b) the Secretary should in no event be required by a court to permit the use of toxic colors "without the clearest and most uncompromising

evidence that usage at certain levels was absolutely safe" in the light of the consumer's total diet, and (c) the court could see no possibility of limiting the consumer's actual intake of such colors (if permitted) to the consumption level estimated in setting a tolerance (*Certified Color Industry Committee v. Secretary of Health, Education, and Welfare*, 256 F. 2d 866 (1956)).

In another case, however—which involved the same "delisting" action and hearing record, though the petitioners were concerned only with the use of one of the delisted dyes in coloring oranges—the Court of Appeals for the Fifth Circuit decided that we had authority, in the listing and certification of colors, to differentiate between one food and another and one food use and another, and that in the case of food we were required to determine and establish safe tolerances for a particular food use—in this case, coloring of the skins of oranges—where the marketability of the food would otherwise be seriously prejudiced and an important segment of the industry depended upon the marketing of the colored commodity. The holding as to our tolerance authority and duty was bottomed on the view that in such a case the addition of color was "required in the production" of the food within the meaning of section 406 (a) of the act, which provides that a poisonous or deleterious food additive shall be deemed to be unsafe unless "required in the production" of the food or unavoidable by good manufacturing practice and that, if it is so required or unavoidable, the Secretary shall establish safe tolerances therefor (*Florida Citrus Exchange v. Folsom*, 246 F. 2d 850 (1957)). This case is now pending for review in the Supreme Court.

3. *Effective date and grandfather clause*

The bill would become effective 6 months after the date of enactment. However, any color additive in use immediately prior to the date of enactment "in accordance with a sanction or approval previously granted" would be deemed to have been listed as suitable for use at the levels of use prevailing when the bill was enacted unless and until such presumed listing is "modified" by the Secretary.

II. COMMENT

We believe that, while the bill should be modified in certain substantive and technical respects, the concepts of the permanent provisions of the bill (as distinguished from the grandfather clause) are basically sound in view of (a) the inflexibility of the present law; (b) the resulting threat to the continued availability of color additives suitable for use in (or on) foods, drugs, and cosmetics in which they have long been used; (c) the fact that scientific procedures are available for determining whether such color additives may be safely used and, if so, in which commodities and under what conditions (including tolerance limitations); and (d) the anomaly of the present law in establishing different ground rules as between so-called coal-tar colors and other additives. It seems desirable to set forth the reasons for these conclusions.

1. *The problem*

The use of synthetic or other substances in food, drugs, and cosmetics for the purpose of imparting an attractive or distinguishing color to the commodity or, in the case of certain cosmetics, for the purpose of enhancing the appearance of the human body through

added color, has long been established and is growing. It is widely accepted, and in many cases consciously demanded, by the consuming public. In the case of food, for example, synthetic color subject to listing and certification under the act is used in (or on) a wide range of commodities, including butter, margarine, oranges, sausage casings, cakes, cookies, pies, bread, processed cheese, spreads, canned and frozen vegetables, confectionery, ice cream, gelatin desserts, puddings, soft drinks, condiments, soups, pickles, prepared dishes, etc. Many housewives also purchase certified color directly and use it in their kitchen in making cakes, icings, desserts, and milk drinks, canning fruit, etc. And before the special tax on colored margarine was repealed, housewives often purchased the color separately and went to the trouble of mixing it with uncolored margarine. The Food and Drug Administration, in the fiscal year 1957, certified 1,581,000 pounds of primary colors listed as suitable and harmless for use in food, a quantity sufficient to color over 1 billion pounds of food. Color has come to be an economic necessity in the marketing of a variety of foods and other commodities covered by the act.

This development has, for more than half a century—i.e., since the enactment of the Pure Food and Drugs Act of 1906—taken place in the shelter of a national policy of allowing the use of synthetic colors, subject only to safeguards considered necessary to protect the public health and prevent deception of consumers. The provisions of the present act (enacted in 1938), prohibiting the use of so-called coal-tar colors other than “harmless” certified colors, were designed to give legislative sanction to, and to extend to drugs and cosmetics, a long-standing administrative practice in certifying “harmless” colors for food. While the congressional committees recognized that most so-called coal-tar colors were toxic—which was the reason for singling them out for special control—it was thought—and this is the central premise of these provisions—that an adequate supply of “harmless” ones, i.e., those “demonstrated to be without adverse physiological action,” had been developed under this administrative practice and, presumably, would continue to be developed as needed; hence, the stringency of the law as we read it (S. Rept. No. 361, 74th Cong. See also, H. Rept. No. 2139, 75th Cong.) However, present-day scientific methods are proving this premise to have been largely illusory.

Within the past few years, new scientific testing methods have shown that some of the coal-tar colors which were permitted in food because earlier testing showed that they were harmless, are capable of causing harm when ingested. Three of these, as above mentioned, have therefore been removed from the list of permitted food colors and have been transferred to the list restricted to use in externally applied drugs and cosmetics, and proceedings have been commenced to remove four more, including a yellow color commonly used in margarine. These tests, conducted with a view to determining whether the colors are themselves harmless, were not aimed at determining, and hence were not adequate to show, whether we could establish for such colors safe levels of use in or on particular foods, drugs, or cosmetics, and, if so, whether their actual use exceeded those levels. As these modern tests are applied to other colors, it is not unlikely that more and more of them will be found to be toxic and thus will have to be removed from the list.

This process could eventually pose a serious threat to established coloring practices in the food, drug, and cosmetic fields. The threat is already present in the case of food colors. There were only 19 primary coal-tar colors listed for food use when the delisting process began. These have now been reduced to 16 (subject to the use on oranges permitted under court order and under temporary legislation) and would be reduced to 12 if the present proceedings on 4 other colors should end in "delisting." While acceptable substitute mixtures of still listed primary colors have been developed for most (not all) food uses in which the three delisted colors were employed, substitution will obviously become more and more difficult as additional primary colors are taken off the list. Nor has it been found technically feasible, in most of these cases, to develop satisfactory non-coal-tar color substitutes.

In this situation, a legislative reexamination of the entire subject of color additives for use in the food, drug, and cosmetic supply of the country is indicated, and we should, in our view, be given new and clear statutory directives as to national policy in this field and as to our duty in carrying out that policy.

The process of judicial interpretation, even if it were finally to establish that we can or must fix tolerances for toxic colors, is not likely to lend itself in this instance to the establishment of the kind of rational scheme—with appropriate controls and with criteria for allocating the aggregate tolerance for a color among different commodities where necessary—which, we believe, would be necessary if coal-tar colors or other color additives were to be admitted to the food, drug, and cosmetic supply under tolerances established by this Department. In this connection, it should also be noted that the decision of the Court of Appeals for the Fifth Circuit in the orange color case is based on a provision of the act relating to food additives (sec. 406(a)) which has no counterpart in the drug and cosmetic provisions of the act. Moreover, legislation can also relieve, through suitable transitional provisions, the special consumer protection problem caused by the fact that at the present rate of testing in the Food and Drug Administration's laboratories it would take many years to complete the task of reexamining the toxicity of all coal-tar colors now on the list. (See the discussion, below, of the grandfather clause of the bill.)

2. Basic approach of bill

The question, then, as we see it, is not so much whether the law should be changed, but, rather, what changes should be made so as, on the one hand, to avoid upsetting needlessly the established coloring practices and, on the other hand, to protect fully the public health and the consumer's interest in honesty and fair dealing.

(a) *Scope of coverage.*—We do not believe that the present distinction between coal tar colors, so-called, and other color additives, whether synthetic or extracted from natural sources, is sound. The assumption that a color additive is necessarily safe when extracted from a plant, or when synthesized with a chemical structure which will not bring it under the term "coal-tar color," whereas a so-called coal tar color is safe only when subjected to special restrictions, is not scientifically tenable. We, therefore, believe that the same ground rules should apply to non-coal-tar color additives for food,

drugs, and cosmetics as are applied to coal tar colors. In this respect the bill is therefore soundly conceived. (Pending enactment of color-additive legislation, food additives which are non-coal-tar colors should, of course, continue to be included in the proposed food additive legislation. See H.R. 6747.)

(b) *Tolerances and other specifications of conditions of use of colors.*—There are few substances which are wholly inert and without any physiological effect, beneficial or harmful, when ingested by man or animal even in "normal" quantity. To the toxicologist, moreover "harmlessness" in the abstract is an unrealistic concept, for it is one of the cardinal principles of toxicology that every substance has a toxic dose, though that dose may in actual practice never be reached. This, of course, does not mean that public health protection requires a tolerance limitation for every substance added to food. And it may well be true that certain color additives have such properties, or are suitable and intended for use in such limited circumstances, that it would be entirely safe to list them for use without quantitative restraint, at least for given uses, without establishment of a tolerance. In such cases we should be authorized to admit such colors for use without being required to establish a tolerance, though we would wish to be able to prescribe other conditions of use.

We are satisfied, however, that many color additives, though useful and presumably capable of safe use at given levels, are sufficiently toxic to give no assurance of safety in actual use in the absence of a governing tolerance limitation, since in the case of such colors individual food processors might otherwise, out of ignorance or carelessness, exceed the safe limit. This is true of all the colors we have "delisted," or have so far proposed to delist, for food use. And the more toxic the color, the more this is true. As already indicated, we are likewise satisfied that, unless such colors are admitted under safe tolerances, the adequacy of the supply for continuation of established coloring practices will be in jeopardy. In this setting, a committee of recognized scientists, appointed by the National Academy of Sciences to review the coal tar color research program of the Food and Drug Administration, said in 1956: "This committee feels compelled to indicate that certification of a compound as 'harmless and suitable for use' in food, drug, and cosmetics, as required under present law, is unrealistic, unless the level of use is specified." It is not unreasonable to suppose that if Congress, when enacting the present act, had been aware that it was acting on a false premise in assuming that the color sections of the act were sufficient to assure an adequate supply of safe color, it would have permitted the establishment of tolerances under proper safeguards.

We are, therefore, in accord with the proposal that we be permitted to admit colors for use under appropriate tolerance and other prescribed conditions of use in specified foods, drugs, and cosmetics. In this connection, it will be recalled that, in our proposal on pretesting of food additives (H.R. 6747), we conceded the desirability of permitting per se toxic additives in the food supply under safe tolerances if they have functional value, instead of limiting such additives to situations where they are required in production or are unavoidable by good manufacturing practice. In using the term "functional value," we did not intend to exclude nondeceptive additives designed for eye appeal, any more than additives intended for gustatory appeal.

(c) *Certification of colors—Exemptions.*—While providing for certification of batches of color, as in the case of existing law, the bill would permit us to grant exemptions where certification is not necessary to protect the public health. The present requirement of certification for coal-tar colors is intended to assure food processors and housewives that the color is free from toxic impurities and otherwise complies with regulations defining the color's identity. We believe that power to exempt colors from the certification requirement is desirable, especially if the coverage of the law is broadened to include all types of color additives.

III. PRINCIPAL RECOMMENDATIONS FOR IMPROVEMENT OF BILL

While, as above shown, we agree in principle with the concepts embodied in the permanent provisions of the bill, we believe that the bill is in need of material revision in a number of respects.

1. *Grandfather clause*

(a) *Listed colors.*—This provision of the bill (sec. 11(b)), while not altogether clear, would apparently have the effect of exempting from the bill preexisting uses and levels of use of coal-tar colors which are on the approved list at the time of enactment of the bill, until the Department has been able to do the necessary scientific work to establish tolerances and properly list them. The Food and Drug Administration estimates that completion of its present retesting work on all listed coal-tar colors at the current rate of testing in its laboratories would take about 25 years, even though these tests are not conducted with a view to the establishment of tolerances. Evaluation of the listed food colors alone, on which considerable work has already been done and which are relatively few in number, is expected to take at least 7 to 8 years at the current rate. Tests adequate for determining the precise toxicity of all these colors with a view to the establishment of tolerances would, of course, take as long or longer.

We, therefore, believe that in its present form this provision is not compatible with adequate protection of the public health. Industry, we believe, should at least share the task of retesting, thereby greatly accelerating its completion. We would therefore recommend that the bill be modified so as to require all the colors now on the permitted list to be reexamined and, unless existing data establish their toxicity in a reliable way, retested within a reasonable period of time by industry to establish satisfactory proof of the precise toxic potential of each color, so that the levels at which the colors may safely be used in food, drugs, or cosmetics can be set. Our food additives bill (H.R. 6747) could furnish a guide for what is a "reasonable period."

Moreover, in view of the many uses for which listed colors are now employed, the probable toxicity of many of them, and the long time required for adequate retesting by the Food and Drug Administration at its present rate, enactment of the grandfather clause in its present form would, for many years to come, so devitalize the health protective aspects of the permanent provisions of the bill as to cast serious doubt on the acceptability of the bill as a whole, even if the bill were otherwise modified in accordance with our recommendations. Our suggestion for modification of the grandfather clause should therefore be considered as integrally and inseparably related to our position on the bill as a whole.

(b) *Other color additives already in use.*—With respect to color additives which are not coal-tar colors, and which were in commercial use prior to January 1, 1958, we likewise suggest that a reasonable period be allowed for compliance with the bill. Such period, we believe, should follow the one contained in the grandfather clause of H.R. 6747, less any part of the period already elapsed under H.R. 6747 in the event of its prior enactment.

2. *Related substances*

The bill should be clarified by granting the Department specific authority, in listing and setting a tolerance for a color, to consider the additive effect of chemically or pharmacologically related substances in the diet.

3. *Antideception provision*

Added color, especially in the case of food, often lends itself to deception. The bill should expressly forbid the listing of a color for a use which will promote deception of the consumer or violate any provision of the basic act. In the case of new uses, the burden should be on the applicant for listing to satisfy the Secretary that it will not promote deception.

4. *Barring violative colors from commerce—Verification of distribution*

In order to facilitate enforcement, we believe that the bill should be amended so as to make contraband any color additive which is marketed in interstate commerce for use in food or drugs, or for use in or as a cosmetic, if such color additive is not listed or certified (when required) for such use or if, in the case of a listed color additive, such additive or its packaging or labeling is not in conformity with requirements of the applicable regulation. It seems desirable to authorize the Secretary expressly to establish such packaging and labeling requirements instead of leaving this to implication. Also, we believe that the requirement, now contained in regulations, that color manufacturers maintain and afford access to records of disposal of listed colors should be expressly provided for by the bill.

5. *Allocation of aggregate tolerance to one or more commodities*

The bill, as we interpret it, authorizes the Secretary to decide which foods, drugs, or cosmetics may bear a color and in what amounts. A situation may arise whereby the entire safe tolerance of a particular color is used in one type of food. This would exclude its use on all other types of food until the former use has been delisted. Conceivably this could cause considerable difficulty. In the case of drugs and cosmetics, the bill lays down no criteria to guide the Secretary on how to allocate the supply of a color as between one commodity and others for which it is suitable and desired. Even in the case of food, the bill is not clear. It states that the Secretary may provide for different tolerances for the same color additive in or on different foods, "depending upon the relative importance of each color additive to the several foods in which it is used and the relative significance of those several foods in the human diet." We hope that the hearings will elucidate the intent of this phrase and, perhaps, develop specifications which will be less difficult to apply. Moreover, we hope that, at least in general, the allocation of a limited tolerance as between two or more color uses originating after enactment of the

bill, or as between a use antedating the bill and a subsequently proposed use, can be based on a first-come, first-served basis.

6. *Other improvements*

In order to expedite this report, we are not commenting at this time upon a number of other revisions, of a subordinate or purely technical character, which we believe to be desirable. Such comment will be submitted at a later stage if desired.

IV. COST

Enactment of the bill would require a material expansion of enforcement and educational activity on colors to afford consumer protection equivalent to that available today. While the cost of the listing and certification service would be defrayed out of fees (sec. 10 of the bill) as at present, the cost of enforcement and education activities would necessarily have to come from appropriations out of general revenues. This additional cost is estimated, for the first year, to be about \$825,000.

Under the present certification system, the food and drug inspector need only determine that the colors being used in a food plant are certified, in order to assure himself that the law is being complied with. If known poisonous colors are used with tolerance limitations, he will have to determine not only whether the color is certified, but also the level at which it is employed, a determination which will have to be checked by periodic laboratory examination of samples of foods, drugs, and cosmetics. According to our best estimates, a minimum control at the Federal level under the tolerance-setting procedure would require approximately 75 additional employees (50 inspectors and 25 analysts).

V. CONCLUSION

To summarize: While we cannot support the bill, and especially the grandfather clause, in its present form, we favor the basic principles of the bill and would favor its enactment if modified along the above-suggested lines. We should be glad to submit such technical and other assistance to that end as the committee may desire.

The Bureau of the Budget, while perceiving no objection to the submission of this report, advises that, in the event of enactment of the bill, the level of appropriations to be requested in the President's budget would be determined in the light of broad budgetary and program considerations then prevailing.

Sincerely yours,

ELLIOTT L. RICHARDSON,
Assistant Secretary.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., February 19, 1959.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

MY DEAR MR. CHAIRMAN: This is in reply to your request of February 10, 1959, for the views of the Bureau of the Budget on H.R. 4194, a bill to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

H.R. 4194 is a companion bill to, and identical with, S. 79 as passed by the Senate. We assume that your request for a report on H.R. 4194 supersedes your request of January 30, 1959, for a report on H.R. 1814.

This bill is designed to permit continuation for a specified temporary period of the industry's coloring practices for mature oranges, a practice which would otherwise be terminated after March 1, 1959, under the terms of the Food, Drug, and Cosmetic Act, as amended by Public Law 672, 84th Congress. Unlike Public Law 672, which authorized the use of the color Red 32, H.R. 4194 would authorize the use of a substitute coal-tar color, Citrus Red No. 2. The new legislation would set as the deadline for the use of the color Citrus Red No. 2 either September 1, 1961, or the date of the enactment of general legislation for the testing and certification of food color additives under safe tolerances, whichever is earlier. Also, in order to allow a short transition period from the old to the new color, the bill would extend by 61 days, i.e., from March 1, 1959, to May 1, 1959, the termination date fixed by Public Law 672 for the use of Red 32.

In general, legislation of a special character seeking to accommodate a general provision of existing law to the special needs of a single commodity should be avoided if possible. The subject bill, however, would set a deadline on the authority to color mature oranges with coal-tar colors, as noted above. This bill also has another advantage over earlier proposed legislation in that it authorizes the setting of safe tolerances for the use on oranges of the permitted coal-tar color.

In view of the foregoing considerations, especially in regard to the temporary nature of this legislation to meet a specific emergency problem, the Bureau of the Budget concurs with the Department of Health, Education, and Welfare in offering no objection to the enactment of H. R. 4194.

Sincerely yours

PHILIP S. HUGHES,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as passed by the Senate, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 402(C) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

SEC. 402. A food shall be deemed to be adulterated—

(a) * * *

(b) * * *

(c) If it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 406: *Provided*, That this paragraph shall not apply to citrus fruit bearing or containing a coal-tar color if application for listing of such color has been made under this Act and such application has not been acted on by the Secretary, if such color was commonly used prior to the enactment of this Act for the purpose of coloring citrus fruit: *Provided further*, That this paragraph shall not apply to oranges meeting minimum maturity standards established by or under the laws of the States in which the oranges were grown and not intended for processing (other than oranges designated by the trade as "packing house elimination"), the skins of which have been colored at any time prior to [March 1, 1959,] *May 1, 1959*, with the coal-tar color certified prior to the enactment of this proviso as F.D. & C. Red 32, or certified after such enactment as External D. & C. Red 14 in accordance with section 21, Code of Federal Regulations, part 9: [And provided further, That the preceding proviso shall have no further effect if prior to March 1, 1959, another coal-tar color suitable for coloring oranges is listed under section 406.] *And provided further*, That without regard to the requirements of sections 406(b) and 701(e), the Secretary shall promptly establish, and may from time to time amend, regulations (1) prescribing the conditions (including quantitative tolerance limitations) under which the coal-tar color known as Citrus Red No. 2 (more particularly to be defined in such regulations) may be safely used in coloring the skins of oranges which are not intended or used for processing (or, if so used, are oranges designated in the trade as "packing house elimination"), and which meet minimum maturity standards established by or under the laws of the States in which the oranges are grown, (2) providing for separately listing such color solely for such use on such oranges, and (3) providing for the certification of batches of such color, with or without harmless diluents, for such restricted use; and such oranges, if colored prior to September 1, 1961, and to the enactment by the Congress (subsequent to the date of enactment of this proviso) of general legislation for the listing and certification of food color additives under safe tolerances, in conformity with this proviso and such regulations, with Citrus Red No. 2 from a batch certified in accordance with such regulations, shall not be deemed to be adulterated within the meaning of this paragraph.

Union Calendar No. 37

86TH CONGRESS
1ST SESSION

S. 79

[Report No. 88]

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1959

Referred to the Committee on Interstate and Foreign Commerce

FEBRUARY 23, 1959

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

MARCH 2, 1959

Recommitted to the Committee on Interstate and Foreign Commerce

MARCH 2, 1959

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

AN ACT

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That (a) the second proviso of section 402 (c) of the Fed-
- 4 eral Food, Drug, and Cosmetic Act is amended by striking

1 out "March 1, 1959," and inserting in lieu thereof "May
2 1, 1959,".

3 (b) The third proviso of section 402 (c) of such Act
4 is amended to read as follows: "*And provided further, That,*
5 without regard to the requirements of sections 406 (b) and
6 701 (e), the Secretary shall promptly establish, and may
7 from time to time amend, regulations (1) prescribing the
8 conditions (including quantitative tolerance limitations)
9 under which the coal-tar color known as Citrus Red No. 2
10 (more particularly to be defined in such regulations) may
11 be safely used in coloring the skins of oranges which are
12 not intended or used for processing (or, if so used, are
13 oranges designated in the trade as 'packinghouse elimina-
14 tion'), and which meet minimum maturity standards estab-
15 lished by or under the laws of the States in which the oranges
16 are grown, (2) providing for separately listing such color
17 solely for such use on such oranges, and (3) pro-
18 viding for the certification of batches of such color,
19 with or without harmless diluents, for each restricted
20 use; and such oranges, if colored prior to September 1,
21 1961, and to the enactment by the Congress (sub-
22 sequent to the date of enactment of this proviso)
23 of general legislation for the listing and certification of
24 food color additives under safe tolerances, in conformity with
25 this proviso and such regulations, with Citrus Red No. 2

1 from a batch certified in accordance with such regulations,
2 shall not be deemed to be adulterated within the meaning
3 of this paragraph.”

Passed the Senate February 9, 1959.

Attest:

FELTON M. JOHNSTON,

Secretary.

AN ACT

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

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to be appointed as a colonel who had less than 18 years of service. There were not enough available for that grade.

Mr. GROSS. By increasing the number of lieutenant generals from two to five does that mean a general increase in numbers of Marine Corps officers?

Mr. KILDAY. No. As I stated before, there is a provision in the Officer Personnel Act as to the total number of generals which the Marine Corps may have. That is not increased by this bill. So there can be no increase in the total number. There can only be the increase in the permanent law of the number of lieutenant generals now on active duty.

Mr. GROSS. Would there be increases in the grades of a number of officers if these lieutenant general grades are made permanent?

Mr. KILDAY. No; that would not be true. That is controlled not only by the percentage distribution of the Officer Personnel Act but by the Arends Act known as the Officer Grade Limitation Act.

Mr. GROSS. Can the gentleman give me any idea of the ages of the officers that are here proposed to be promoted?

Mr. KILDAY. Offhand, I do not know. They are, of course, the most senior generals of the Armed Forces. I would say somewhere in their fifties.

Mr. GROSS. Somewhere in their fifties?

Mr. KILDAY. I think they are all in their fifties or thereabouts.

Mr. GROSS. Are any of these officers who would be given permanent rank drawing flight pay?

Mr. KILDAY. I think there is one.

Mr. GROSS. A newspaper account the other evening said two. I wonder if that figure is correct.

Mr. KILDAY. There may be two, I would not be certain about that, but, of course, this bill does not affect them.

Mr. GROSS. If this legislation is not passed these three lieutenant generals will eventually have to go back to major generals; will they not?

Mr. KILDAY. No. They will finally retire and they will retire in the highest grade satisfactorily held. So they would retire as lieutenant generals.

Mr. GROSS. The Navy has a habit of promoting its officers a grade just before they retire, is that not correct?

Mr. KILDAY. No; I do not think so. The Senate has control of confirmations, of course, and they have been riding pretty close herd on them with reference to that.

Mr. GROSS. Well, I doubt they are riding such close herd as the gentleman thinks.

Mr. KILDAY. I think what the gentleman has in mind is another provision of law that we repealed some time ago where men, because of a combat citation in their record in the past, were retired one grade higher than the grade which they actually held at the time of their retirement. But, in 1949 we repealed that as to any person for any commendation earned after December 31, 1946.

Mr. GROSS. But there is nothing to prevent promotion just before retirement, is there, in the law today? There

is nothing to prevent promotion, so that these gentlemen, if given the permanent grade of lieutenant general, could be, before retirement, promoted to full general and draw that retirement?

Mr. KILDAY. The gentleman is confused. These men, having served a sufficient period of time already as lieutenant generals, no matter in what grade they may be serving at the time they retire, will retire as lieutenant generals, the highest rank satisfactorily held. That is true of every member of the military service, where he serves in a temporary grade higher than his permanent grade, if he serves satisfactorily in that grade, and that is usually defined to be 6 months of service in that grade, and then he retires in his temporary grade with the pay of his temporary grade, so this would not affect that at all.

Mr. GROSS. Does the gentleman think that we should, under the circumstances that exist in this country, logically add three more permanent lieutenant generals to the Marine Corps?

Mr. KILDAY. We are not adding a thing to the Marine Corps, and under the conditions which exist in the country and in the world today, I do not believe we should take any action that would indicate any diminution in the power or striking ability of the Marine Corps. I do not think we can afford to do that.

Mr. GROSS. Why do you want to give them this permanent rank?

Mr. KILDAY. Well, I would say to the gentleman, why should we not? In 1947, with a total strength of 100,000, we limited them to two lieutenant generals. At that time the authorized strength was 100,000 enlisted men and 7,000 officers. We changed it materially here in the Congress. We provided that the Marine Corps shall at all times consist of three combat divisions and three combat wings, so that when you increase the organizational strength and the number of organizations, when you provide for the number of divisions, then you have got to have the higher ranking officers in order to command that organization. That would be true even though your total strength was less. If you have three divisions at half strength, you would still have to have three division commanders, just as you have to have three division commanders when you have three divisions at full combat strength.

Mr. GROSS. May I ask the gentleman this question? If these three officers were to retire, would they retire as major generals or lieutenant generals?

Mr. KILDAY. Lieutenant generals.

Mr. GROSS. As lieutenant generals?

Mr. KILDAY. Yes.

Mr. GROSS. They would be retired without any further action by Congress?

Mr. KILDAY. That is true under present law.

Mr. GROSS. I want to go back to this flight pay business for just a moment, because I think that very serious attention needs to be given by the Congress.

Mr. KILDAY. I do not understand why the gentleman refers to flight pay in connection with this.

Mr. GROSS. Because the whole cost is going to be greater. The gentleman knows if these three are elevated to lieu-

tenant generals, they will retire under any condition, at least as lieutenant generals, and the cost to the taxpayers will be greater.

Mr. KILDAY. I believe the gentleman is thinking of an old law.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice so that I may have more time to study it.

The SPEAKER. Is there objection to the request of the gentleman from Iowa? There was no objection.

MAINTENANCE AND TRAVEL EXPENSES OF JUDGES

The Clerk called the bill (H.R. 2909) relating to the maintenance and travel expenses of judges.

Mr. FORD. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER. That is the last eligible bill on the Consent Calendar.

COLORING ORANGES

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the bill (S. 79) to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances, be recommitted to the Committee on Interstate and Foreign Commerce.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

(Mr. HARRIS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. HARRIS. Mr. Speaker, the bill, S. 79, which passed the Senate unanimously, was reported favorably and unanimously by the Committee on Interstate and Foreign Commerce on February 23, 1959.

Through inadvertence, the calendar bill print of S. 79, as reported by the Committee on Interstate and Foreign Commerce—Union Calendar No. 13—is incorrect. The print set forth the bill as it was introduced in the Senate rather than the bill as it was passed by the Senate. The bill as passed by the Senate contains a number of amendments which were requested by the Food and Drug Administrations to make clear beyond any doubt that this legislation is temporary emergency legislation which will become inoperative with the enactment of general legislation concerning food color additives.

My request for recommitment of S. 79 is made for the purpose of having a corrected calendar bill prepared.

THE LATE HONORABLE J. HARRY
MCGREGOR

The SPEAKER. The Chair recognizes the gentleman from Ohio [Mr. HESS].

Mr. HESS. Mr. Speaker, all Members of the House and especially those of the Ohio delegation, I am sure join with me in the tribute of respect to the memory of our former colleague, J. HARRY MCGREGOR, who has been called from us.

HARRY MCGREGOR was born in Ohio, was educated in its public schools and colleges, and served in the First World War from Ohio. He was a member of the Ohio Legislature from 1935 through 1940. During his service, he was floor leader and Speaker pro tempore.

He came to the House of Representatives on February 27, 1940, to succeed our late colleague, the Honorable William Ashbrook; and served successively from the 77th Congress through the 85th Congress.

HARRY MCGREGOR's interest was the welfare of the people of the district he served so long. He was interested in the needs of the older people. He was interested in the farmers of Ohio and of the Nation. He was interested in the veterans of our wars; and through his own military service, was a member of all of the veterans' organizations of Ohio.

His was a long, active, and useful life. He gave unstintingly of his time and his enormous capacity for work, to the improvement of the condition of the people of his district and of the State and country.

Unsung work for public welfare and the common good may lack glamor; but what is lacked in glamor was filled for him with the affection, understanding, and good will of the people in whose causes and for whose welfare he labored so unselfishly.

We of the House of Representatives shall miss his calm, wise, and sober counsel, his willingness to give of himself; and his stanch and steadfast loyalty to the causes for which he stood.

Now he rests in his beloved State of Ohio in the midst of friends and family. We, his colleagues, share the void to which everyone feels at the passing of so fine a friend, so dedicated a public servant of us all.

To his children, we extend our deepest sympathy, confident that the memories HARRY MCGREGOR left will be a consolation to his bereaved and a warm and affectionate memory to the people whom he served. I have lost a friend and Ohio a loyal and courageous son.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, I wish to join with the chairman of the Ohio delegation [Mr. HESS] in paying tribute to our former colleague, the late lamented J. HARRY MCGREGOR.

It was my high privilege to know HARRY MCGREGOR and his fine family; his wife, his son, and two daughters, throughout almost a lifetime.

I believe our first acquaintance, between Mr. MCGREGOR and myself, came about just after World War I had ended. He served the State of Ohio ably and well in the Legislature where his services were such that when the Congress-

man from the 17th Ohio district then sitting as a Member in this Chamber passed away, Mr. MCGREGOR was selected, and elected in a special election, to represent that great Ohio district here. He did so, for practically 20 years, in a way which won him great renown and high respect.

HARRY MCGREGOR in private life engaged in highway construction and other contracting work. That experience fitted him especially well to serve as a member of the House Committee on Public Works, where he was one of the real leaders in giving to America not only a splendid interstate highway system, many river and harbor improvements, the St. Lawrence Seaway, and numerous effective flood control projects in various States. The country as a whole is indebted to him for his service in these particular fields. In fact, these great public works, which have been made effective since HARRY MCGREGOR came to the Congress, stand as memorials to him today.

His sudden passing last October came as a shock to all of us who knew him, loved him, and served with him here in the House of Representatives. We have all suffered a great loss, but that loss is as especial one for the Ohio delegation, and for the people of our Ohio. To his two daughters, his son, and his grandchildren, we extend our deepest and most sincere sympathy in the great loss that has been theirs.

Mr. McCULLOCH. Mr. Speaker, will the gentleman yield?

Mr. HESS. I yield.

Mr. McCULLOCH. Mr. Speaker, I rise with heavy heart to say a few words about my good friend, the late J. HARRY MCGREGOR, longtime Member of Congress from Ohio, who left us much too soon.

HARRY and I were close friends and legislative colleagues for almost a quarter of a century. We were both members of the Ohio House of Representatives from early 1935 until HARRY was elected to Congress in early 1940. During that time, he was minority whip and then majority leader. HARRY was an energetic whip and was a persuasive and effective majority leader. He seldom, if ever, failed in his goals as a majority leader.

During his service in the Ohio House of Representatives, he sponsored and was the leader who caused to be enacted into law, school and highway proposals of lasting benefit to Ohio.

His interest in the conservation of our natural resources and his tireless and effective work for flood control is well known to all leaders in this field.

Finally, those who served with him in the Congress well know his fine leadership in all public works, and particularly, in the field of public highways.

An enthusiastic and effective legislator and a great and good friend has left us. Thousands will knowingly and countless millions will unknowingly miss a legislator who has done so much for so many. His fine family has the sympathy of friends everywhere.

Mr. GARY. Mr. Speaker, I rise to join my colleagues in paying tribute to our dear lamented friend, HARRY

MCGREGOR. He was a dedicated Congressman. He served his district, State, and Nation well.

I had the pleasure of having many contacts with him at various times. Although he was of a different political persuasion, he was always considerate, courteous, and gracious. He endeared himself to the Members of this House, on both sides of the aisle. We all mourn his loss which will be severely felt in this House.

Mr. HESS. Mr. Speaker, I yield to the gentleman from Louisiana [Mr. BROOKS].

Mr. BROOKS of Louisiana. Mr. Speaker, I rise at this time to place a wreath on the grave of our departed friend, HARRY MCGREGOR. I knew HARRY well. I saw him often in the course of his work, although my committee assignment was different from that of our departed friend. It was always a pleasure to work with him. He was kindly, friendly, always courteous, and he was most competent. I worked especially with him on the highway program to which he devoted many, many long, tireless hours of effort in most unselfish service to the country that he loved so well.

There is a saying asked in the form of a question to the effect "Where, oh where, are the snows of yesteryear?" The snows of yesteryear are gone. They are melted. They are in the streams and forests and farmlands and the richness of the Nation."

So likewise the ability, the sincere achievements, great energies of this great American HARRY MCGREGOR who has left us are to be found in the achievements that he supported and the accomplishments which he passed on to the people of America. Now our citizenry is richer and more capable and happier because of his having been a Member of this great body.

Mr. HESS. Mr. Speaker, I yield to the gentleman from Ohio [Mr. HENDERSON].

Mr. HENDERSON. Mr. Speaker, I desire to join with his friends in paying tribute to HARRY MCGREGOR, for many years our colleague here in Congress.

Geographically, HARRY MCGREGOR was closer to me and my district than any other Member of Congress, because he lived in the extreme southern part of his district, just adjacent to my own district.

In many other respects HARRY MCGREGOR was closer to me than any other Member of Congress. When I first met him I formed an opinion that stayed with me throughout our association together, that here was a man, dedicated to his district and to his Nation, determined in the course that he would take. I liked him and his manner.

HARRY took great pleasure in life. One thing that set him apart was the jollity, the laughter, and the smile of HARRY MCGREGOR. We saw it on his face and we knew it was in his heart. You could watch HARRY MCGREGOR come into a room with that smile as if by magic, it was imparted to all who watched his face. They became filled with the same sense of lightheartedness that so characterized HARRY MCGREGOR.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

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HIGHLIGHTS: Rep. Cooley defended CCC loan program. Senate confirmed nomination of Roger Jones to be Civil Service Commissioner. Sen. Fulbright criticized alleged efforts to modify cotton export program announced by USDA. Sen. Humphrey and others introduced and Sen. Humphrey discussed bill to increase and extend special milk program. Sen. Eastland and others introduced and Sen. Eastland discussed measure for centennial celebration of establishment of USDA and land-grant colleges. Sen. Kennedy and others submitted and Sen. Kennedy discussed measure favoring renewal of International Wheat Agreement. Sen. Case, N. J., inserted Secretary's N. J. speech. Rep. Hemphill introduced and discussed turkey marketing bill.

1. FARM PROGRAM. Rep. Cooley charged that publicity of certain CCC loan figures which are being used to show benefits to large farmers is a "deliberate campaign to bring the whole farm program into disrepute," and stated that "the amount of a loan to an individual producer in no way is a measure of any cash benefit that producer has received through the operation of the commodity loan program." p. 3073
2. PEANUTS. Rep. Flood spoke on the history and importance of peanuts and peanut products. pp. 3057-8
3. HAWAIIAN STATEHOOD. Rep. Green commended and inserted an Oregon State Legislature resolution favoring immediate statehood for Hawaii. p. 3058
4. WATER UTILIZATION; FLOOD CONTROL. Rep. Anderson inserted a Montana State Legislature resolution urging enactment of legislation calling for resumption of work on the Yellowtail Dam project on the Big Horn River in Mont. pp. 3058-9, 3087
The Interior and Insular Affairs Committee reported with amendment H. R. 1306 to amend Sec. 2 (b) of the Columbia Basin Project Act to allow Washington State College to use water for research purposes (Rept. 177). p. 3085
5. FORESTRY. Rep. Porter reviewed the value of national forests and praised the leadership of a forest supervisor in his district. pp. 3059-60
6. MONETARY POLICIES; DEBT MANAGEMENT. Reps. Patman, Oliver, and Johnson, Colo., discussed Patman's resolution to study the Nation's monetary and debt management systems, and Patman criticized the Administration for mobilizing "all its force to prevent such an investigation," and the high interest rate policies of and certain banker control over the Federal Reserve. pp. 3062-8
7. FOREIGN AID. Reps. Zablocki, Judd, Adair, and Bow discussed world peace and disarmament and Rep. Zablocki urged an invigorated "point 4 program and allied undertakings, intended to help eliminate starvation." pp. 3068-72
8. ELECTRIFICATION. Reps. Stratton, Miller, N. Y., and Wier criticized TVA and other agencies concerned with REA and large generator bids for purchasing electrical equipment from foreign countries during a period of unemployment in the U. S. pp. 3080-2
9. POSTAL RATES. Received from the Postmaster General a proposed bill to restore the authority of the Postmaster General to adjust the postage rates for airmail weighing in excess of 8 ounces; to the Post Office and Civil Service Committee. p. 3085
10. AGRICULTURE COMMITTEE. The Rules Committee reported with amendment H. Res. 93, authorizing the Agriculture Committee to make certain studies and investigations (H. Rept. 182). p. 3085
11. ORANGES. The Rules Committee reported a resolution for consideration of S. 79, to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by HEW. p. 3085
12. TEXTILES. Received a memorial from the R. I. General Assembly commending Sen. Pastore's recommendations to create a permanent Textile Interagency Committee in the Commerce Dept. p. 3087

CONSIDERATION OF S. 79

MARCH 5, 1959.—Referred to the House Calendar and ordered to be printed

Mr. TRIMBLE, from the Committee on Rules, submitted the following

REPORT

[To accompany H. Res. 200]

The Committee on Rules, having had under consideration House Resolution 200, report the same to the House with the recommendation that the resolution do pass.

○

34008

10 pending congressional consideration of general legislation for
11 the listing and certification of food color additives under safe
12 tolerances. After general debate, which shall be confined to

House Calendar No. 28

86TH CONGRESS
1ST SESSION

H. RES. 200

[Report No. 184]

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 1959

Mr. TRIMBLE, from the Committee on Rules, reported the following resolution;
which was referred to the House Calendar and ordered to be printed

RESOLUTION

1 *Resolved*, That upon the adoption of this resolution it
2 shall be in order to move that the House resolve itself into
3 the Committee of the Whole House on the State of the Union,
4 for the consideration of the bill (S. 79) to amend the Federal
5 Food, Drug, and Cosmetic Act to permit the temporary
6 listing and certification of Citrus Red No. 2 for coloring
7 mature oranges under tolerances found safe by the Secretary
8 of Health, Education, and Welfare, so as to permit continu-
9 ance of established coloring practice in the orange industry
10 pending congressional consideration of general legislation for
11 the listing and certification of food color additives under safe
12 tolerances. After general debate, which shall be confined to

1 the bill, and shall continue not to exceed one hour, to be
2 equally divided and controlled by the chairman and ranking
3 minority member of the Committee on Interstate and Foreign
4 Commerce, the bill shall be read for amendment under the
5 five-minute rule. At the conclusion of the consideration of
6 the bill for amendment, the Committee shall rise and report
7 the bill to the House with such amendments as may have
8 been adopted, and the previous question shall be considered
9 as ordered on the bill and amendments thereto to final
10 passage without intervening motion except one motion to
11 recommit.

86TH CONGRESS
1ST SESSION

H. RES. 200

[Report No. 184]

RESOLUTION

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

By **Mr. TRIMBLE**

MARCH 5, 1959

Referred to the House Calendar and ordered to be
printed

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OFFICE OF
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HIGHLIGHTS: House received President's message on extension of mutual security program. Senate committee ordered reported bill to authorize leasing of cotton acreage allotments. House committee reported D. C. appropriation bill.

HOUSE

1. FOREIGN AID. Received from the President his proposed mutual security program for 1960 (H. Doc. 97); to Foreign Affairs Committee. pp. 3661-5
2. CROP INSURANCE. The Agriculture Committee reported with amendment H. R. 306, to amend the Federal Crop Insurance Act so as to permit elimination from the program of crops which constitute only a small part of total income in a county (H. Rept. 210). p. 3745
3. APPROPRIATIONS. The Appropriations Committee reported without amendment H. R. 5686, the District of Columbia appropriation bill for 1960 (H. Rept. 211). p. 3745
4. UNEMPLOYMENT COMPENSATION. The Ways and Means Committee reported without amendment H. R. 5640, to extend the temporary unemployment compensation program (H. Rept. 212). p. 3745

5. ORANGES. Passed, 213 to 94, ^{S. 79,} without amendment to permit continuation of the coloring of oranges. This bill will now be sent to the President. pp. 3704-16
6. PRICE SUPPORTS. Rep. Jones, Mo., defended price supports for farmers and referred to Government subsidies to the shipping industry. pp. 3665-6
Rep. Byrnes, Wisc., expressed his approval of "the announcement of the Secretary of Agriculture yesterday that current dollar support prices for manufacturing milk and butterfat will be continued through the marketing year which begins on April 1." p. 3666
7. AREA REDEVELOPMENT. Rep. Flood discussed the unemployment situation, urged the enactment of area redevelopment legislation, and inserted a compilation, "Area Redevelopment Fact Sheet No. 34 -- Comparative Impact of H. R. 3466 and H. R. 4264 (The Administration Bill) on Major Labor Market Areas in the United States. pp. 3720-1
8. MILK STANDARDS. Rep. Johnson, Wisc., urged the enactment of legislation to establish national milk sanitation standards, and inserted an article and a copy of the milk marketing order for the D. C. area. pp. 3726-43
9. FOREIGN CURRENCIES. Received from the Agriculture Committee a report on the use of foreign currencies for the Tobacco Subcommittee. p. 3744
10. GOVERNMENT CORPORATIONS. Received from the Budget Bureau a proposed bill "To amend the Government Corporation Control Act, as amended"; to Government Operations Committee. p. 3744
11. ELECTRIFICATION. Received from the Federal Power Commission several statistical reports relating to electric utilities. p. 3744
Received from TVA a report, "A Program for Reducing the National Flood Damage Potential." p. 3744
12. LEGISLATIVE PROGRAM. Rep. McCormack announced the following legislative program: Mon.: Consent Calendar, to be followed by H. R. 5640, extension of the temporary unemployment compensation program; H. R. 519, expansion of the depository library program; and H. R. 5676, D. C. appropriation bill; Thurs: Treasury-Post Office appropriation bill. He announced that the Easter Recess "will begin at the close of business on March 26 and will run until Tuesday, April 7." pp. 3703-4
13. ADJOURNED until Mon., Mar. 16. p. 3744

SENATE

14. COTTON. The Agriculture and Forestry Committee ordered reported an original bill authorizing the leasing of cotton acreage allotments during the crop years of 1959 through 1961. p. D160

ITEMS IN APPENDIX

15. STATEHOOD. Speeches in the House by several Representatives favoring statehood for Hawaii. pp. A2148, A2157, A2165-5, A2169-70, A2184
16. AREA REDEVELOPMENT. Rep. Griffiths inserted an editorial endorsing urban renewal and area redevelopment legislation. p. A2149

Jones, Mo.	Moss	Shipley
Karsten	Moulder	Sikes
Kasem	Multer	Sisk
Ke	Murphy	Slack
Keogh	Murray	Smith, Iowa
Kilday	Natcher	Smith, Miss.
Kilgore	Norrell	Smith, Va.
King, Calif.	O'Brien, Ill.	Spence
King, Utah	O'Brien, N.Y.	Springer
Kirwan	O'Hara, Ill.	Staggers
Kitchin	O'Neill	Steed
Kluczynski	Oliver	Stratton
Kowalski	Passman	Stubblefield
Landrum	Ratman	Sullivan
Lankford	Peckins	Teague, Tex.
Lennon	Pfost	Thomas
Libonati	Phillips	Thompson, La.
McCormack	Pilcher	Thompson, N.J.
McDowell	Poage	Thornberry
McMillan	Powell	Toll
McSween	Preston	Trimble
Mack, Ill.	Price	Tuck
Madden	Prokop	Udall
Mahon	Pucinski	Ullman
Mailliard	Rains	Vinson
Marshall	Reece, Tenn.	Walter
Mason	Rhodes, Pa.	Wampler
Matthews	Rivers, Alaska	Watts
Morrow	Rivers, S.C.	Whitener
Metcafe	Rodino	Whitten
Michel	Rogers, Colo.	Wier
Miller	Rogers, Fla.	Williams
Clement W.	Rogers, Mass.	Willis
Miller	Rogers, Tex.	Winstead
George P.	Rooney	Wolf
Mills	Rostenkowski	Wright
Mitchell	Roush	Yates
Montoya	Rutherford	Young
Morgan	Santangelo	Zelenko
Morris, N. Mex.	Saund	
Morris, Okla.	Selden	

NAYS—142

Adair	Gavin	Moorhead
Alger	George	Mumma
Ashley	Griffin	Nelsen
Auchincloss	Griffiths	Norblad
Avery	Gross	O'Hara, Mich.
Ayres	Gubser	O'Konski
Baldwin	Halleck	Osmers
Barry	Halpern	Ostertag
Bass, N.H.	Hays	Pelly
Bates	Hess	Pillion
Baumhart	Hiestand	Pirnie
Becker	Hoeven	Poff
Belcher	Hoffman, Mich.	Porter
Bennett, Mich.	Holland	Quigley
Bentley	Holt	Rabaut
Berry	Horan	Ray
Betts	Hosmer	Rees, Kans.
Bosch	Jackson	Reuss
Bow	Johansen	Robison
Broomfield	Johnson, Colo.	Saylor
Brown, Ohio	Johnson, Wis.	Schenck
Budge	Jonas	Scherer
Bush	Karh	Schwengel
Byrnes, Wis.	Kastenmeier	Short
Carnahan	Kearns	Siler
Cederberg	Keith	Simpson, Ill.
Chamberlain	Kilburn	Simpson, Pa.
Conte	Knox	Smith, Calif.
Cook	Langen	Smith, Kans.
Corbett	Latta	Taber
Cramer	Lesinski	Teague, Calif.
Cunningham	Levering	Thomson, Wyo.
Curtin	Lindsay	Tollefson
Curtis, Mass.	Lipscomb	Utt
Dague	McCulloch	Vanil
Derounian	McDonough	Van Pelt
Devine	McFall	Van Zandt
Diggs	McIntire	Wallhauser
Dingell	Machrowicz	Weis
Dooley	Mack, Wash.	Westland
Dorn, N.Y.	May	Wharton
Dulski	Meador	Widnall
Dwyer	Meyer	Wilson
Feighan	Miller, N.Y.	Withrow
Fino	Milliken	Younger
Flynn	Minshall	Zablocki
Ford	Moeller	
Fulton	Moore	

ANSWERED "PRESENT"—2

Baker Rhodes, Ariz.

NOT VOTING—52

Andersen,	Celler	Green, Pa.
Minn.	Chelf	Hall
Anfuso	Coffin	Hébert
Barden	Curtis, Mo.	Henderson
Bolton	Dixon	Herlong
Bowles	Evins	Judd
Bray	Fisher	Kelly
Cahill	Frelinghuysen	Lafore
Carter	Glenn	Laird

Lane	Nix	Scott
Loser	Polk	Shelley
McGinley	Quile	Sheppard
McGovern	Randall	Taylor
Macdonald	Riehlman	Teller
Magnuson	Riley	Thompson, Tex.
Martin	Roberts	Wainwright
Monagan	Roosevelt	Weaver
Morrison	St. George	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Baker for, with Mr. Laird against.
 Mr. Curtis of Missouri for, with Mr. Bray against.
 Mr. Martin for, with Mr. Weaver against.
 Mr. Celler for, with Mr. Frelinghuysen against.
 Mrs. Kelly for, with Mr. Henderson against.
 Mr. Chelf for, with Mrs. St. George against.
 Mr. Monagan for, with Mr. Dixon against.
 Mr. Green of Pennsylvania for, with Mr. Judd against.
 Mr. Hébert for, with Mr. Coffin against.
 Mr. Riley for, with Mr. Scott against.
 Mr. Rhodes of Arizona for, with Mr. Wainwright against.
 Mr. Roberts for, with Mr. Glenn against.
 Mr. McGinley for, with Mrs. Bolton against.
 Mr. Lane for, with Mr. Lafore against.
 Mr. Thompson of Texas for, with Mr. Riehlman against.
 Mr. Sheppard for, with Mr. Taylor against.
 Mr. Morrison for, with Mr. Polk against.
 Mr. Roosevelt for, with Mr. Quile against.

Until further notice:

Mr. Herlong with Mr. Anderson of Minnesota.
 Mr. Evins with Mr. Cahill.

Mr. BAKER. Mr. Speaker, I have a live pair with the gentleman from Wisconsin [Mr. LAIRD]. If he were present, he would have voted "nay." I voted "yea." Therefore, I withdraw my vote of "yea" and vote "present."

Mr. RHODES of Arizona. Mr. Speaker, I have a live pair with the gentleman from New York [Mr. WAINWRIGHT]. If he were present, he would have voted "nay." I voted "yea." Therefore, I withdraw my vote of "yea" and vote "present."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. BLATNIK. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

PROGRAM FOR THE BALANCE OF THIS WEEK AND FOR NEXT WEEK

(Mr. HALLECK asked and was given permission to address the House for 1 minute.)

Mr. HALLECK. Mr. Speaker, I have asked for this time for the purpose of inquiring concerning the program for the balance of the day and the program for next week.

Mr. McCORMACK. Mr. Speaker, for the balance of today we have the bill relating to the coloring of oranges. That is about to come up. Then there are two

bills out of the Committee on Armed Services.

There are three rules to be adopted, if they do not take too long.

I know of no opposition to the bills, and I am hopeful we may dispose of them today. Those in charge of the bills, if they find there is opposition, I am sure will proceed expeditiously.

Mr. HALLECK. If there are rollcalls, however, they would be had this evening?

Mr. McCORMACK. Yes. I know of no rollcall that will be asked, but one can never tell.

If either of the bills from the Committee on Armed Services is not disposed of, they will go over until next Tuesday. I am hopeful they will be disposed of today. Assuming the three bills to which I have referred are disposed of today, I come now to next week's program.

On Monday we have the Consent Calendar.

Then there are three suspensions: H.R. 5640, the extension of the temporary unemployment compensation law.

H.R. 10, the self-employed individual retirement act of 1959.

H.R. 519, revision of laws relating to depository libraries.

Then the District of Columbia appropriation bill for 1960 will be brought up.

If the District of Columbia bill is not completed on Monday it will go over until Tuesday. As I say, if any of the bills programed for today are not completed today they will come up Tuesday.

By agreement of the leadership on both sides, any rollcalls on Monday and Tuesday will go over until Wednesday, on account of Tuesday's being, of course, one of the greatest days in the history of the world, St. Patrick's Day.

The Committee on Rules meets on Tuesday. If a rule is reported out on Tuesday on the bill H.R. 5132, or the Airport bill, which is H.R. 1011, either one of those bills might be brought up. I prefer not to state now which one will be brought up or brought up first. Of course, if both can get through the same day, that would be fine. I would want to bring up both of them, but if rules are reported out on both, as to which one would be brought up first I should like to have a little flexibility. The probability is that the Armed Forces retention of officers bill would be the one, but I would not want to commit myself on that now.

On Thursday the Treasury-Post Office appropriations bill for 1960 will be considered.

The Easter recess will begin at the close of business on March 26 and will run until Tuesday, April 7.

I make the usual reservation that conference reports may be brought up at any time and that any further program will be announced later.

Mr. HALLECK. If I may in my time, I should like to make an observation with respect to the suspensions that are scheduled for Monday. The first one has to do with the extension of temporary unemployment compensation. The majority leader and the Speaker very kindly spoke to me about it, and I agreed

that it should be called up. We all realize that action must be had on that measure before March 31, which puts it in the nature of an emergency.

The suspension having to do with the revision of laws relating to depository libraries is rather a matter of routine and is not of any great consequence.

I would want the record to show that with respect to H.R. 10 I did not agree, so far as I was concerned, to the suspension on Monday next. As a matter of fact, I did what I could to avoid its being called under suspension. Of course I recognize that this is a matter completely within the prerogative of the Speaker, as to recognizing any Member to move to suspend the rules and pass a bill. Certainly anything I could say I would not want to be interpreted as any criticism of the Speaker in that regard.

However, no rule has been asked for on the bill. If it comes on under suspension, the minority does not have any right even to make a motion to recommend. Under the circumstances, I thought it might have been better to call the bill under a rule, which rule certainly I would have joined in trying to obtain. However, the promise has been made to put it on under suspension on Monday. So, having made that statement, that is the most I can do.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. HALLECK. I yield to the gentleman from Iowa.

Mr. GROSS. Is Monday a holiday or something? Why should we not have a rollcall vote on Monday?

Mr. McCORMACK. I think the gentleman from Iowa is one of the fairest-minded men that I have met.

Mr. GROSS. Well, now—

Mr. McCORMACK. Wait a minute, now. I am expressing my views, and the gentleman has no control over my thoughts. If they are nice and favorable to my friend, they are my thoughts just the same.

Since Tuesday is St. Patrick's Day, I am sure my friend would not want to have Members who have commitments for that day to go away over the weekend and come back here on Monday and then go back on Tuesday to carry out the commitments which they might have. That is, as I said, a very important day and I am sure that is an observation which will appeal to the fairmindedness of our colleague, the gentleman from Iowa.

Mr. HALLECK. Mr. Speaker, I join with the gentleman from Massachusetts in his statement that it is really a great day, but I will not say it is the greatest day.

If I may add one thing further in connection with what I said about the bill, H.R. 10, I would not want my remarks to be construed by anyone here as anything but an expression of opinion as to procedure—certainly not on my side, because I know a great many Members on both sides of the aisle are very much in favor of the enactment of H.R. 10. What I had to say had to do only with the matter of keeping the record straight with respect to the procedure involved.

ADJOURNMENT UNTIL MONDAY NEXT

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ORANGE COLORING

Mr. TRIMBLE. Mr. Speaker, by direction of the Committee on Rules, I call up the resolution (H. Res. 200) to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of citrus red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union, for the consideration of the bill (S. 79) to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances. After general debate, which shall be confined to the bill, and shall continue not to exceed one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. TRIMBLE. Mr. Speaker, House Resolution 200 makes in order the consideration of S. 79, which amends the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of citrus red No. 2 for coloring mature oranges.

The practice of using artificial color to color the skins of fully mature, sound oranges has prevailed in Florida and Texas for many years. Such coloring is necessary because fully mature fruit from those areas in many instances may be greenish and nonuniform in color.

Formerly the coloring material employed was coal-tar color FDC red No. 32. In 1955 the Food and Drug Administration developed evidence that this coloring material was not harmless since, under some circumstances and in some

quantities, it is capable of causing harm when fed to laboratory animals under properly conducted tests. Because of these findings the Administration caused this color to be removed from the list of colors certifiable for use in foods, which prohibited its use in coloring oranges.

In the 84th Congress legislation was passed, Public Law 672, which provided for the temporary continuation of certification and use of the color previously known as FDC red No. 32 solely for the purpose of coloring skins of oranges, it having been determined that this would involve no known danger to public health. This legislation expressly provided an expiration date of February 28, 1959, or sooner if a harmless substitute were developed. The studies undertaken during that period led to the development of the color known as citrus red No. 2, and we have been assured that the toxicity level of citrus red No. 2 is significantly lower than that of FDC red No. 32, and that in the quantities necessary to color the skin of oranges it is without hazard to man.

It is specifically provided that the provisions of this bill will become inoperative on August 31, 1961, or before that time if general legislation affecting coloring materials for food is enacted by the Congress. The reason for the time limit is that this is emergency legislation which will meet the immediate needs of the citrus industry without permanently engrafting on the basic Food, Drug, and Cosmetic Act a new principle of tolerances for coal-tar colors which is not applicable to foods generally. The expiration date has been so fixed as to allow the Congress ample time to consider the application of this principle to all foods. It is the intention of the Committee on Interstate and Foreign Commerce, to which this bill was referred for consideration, to study amendments to the Federal Food, Drug, and Cosmetic Act dealing with color additives generally since the need for such legislation has been amply demonstrated to this committee.

Mr. Speaker, I yield 30 minutes to the gentleman from Ohio [Mr. Brown].

Mr. BROWN of Ohio. Mr. Speaker, this resolution was unanimously reported by the Committee on Rules. It makes in order the consideration of the bill, S. 79. I support both the rule and the bill. I have no requests for time and yield back the balance of my time.

Mr. TRIMBLE. Mr. Speaker, I move the previous question.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING CONSTRUCTION OF MODERN NAVAL VESSELS

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up the resolution (H. Res. 203) providing for the consideration of H.R. 3293, a bill to authorize the construction of modern naval vessels, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3293) to authorize the construction of modern naval vessels. After general debate, which shall be confined to the bill, and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio [Mr. BROWN]; and pending that, I yield myself such time as I may consume.

Mr. Speaker, this rule was reported unanimously and the bill that will be considered under the rule was also unanimously reported. I know of no opposition to the rule.

Mr. BROWN of Ohio. Mr. Speaker, the minority members of the Committee on Rules supported this rule. I know of no opposition to either the rule or to the legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXTENSION OF SPECIAL ENLISTMENT PROGRAM

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 204 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3368) to extend the special enlistment programs provided by section 262 of the Armed Forces Reserve Act of 1952, as amended. After general debate, which shall be confined to the bill, and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. DELANEY. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio [Mr. BROWN] and yield myself such time as I may consume.

The SPEAKER. The gentleman from New York is recognized.

Mr. DELANEY. Mr. Speaker, House Resolution 204 makes in order the consideration of H.R. 3368, to extend the special enlistment programs provided by section 262 of the Armed Forces Reserve Act of 1952, as amended. This resolution provides for an open rule and 2 hours of general debate.

The purpose of this bill is to extend until August 1, 1963, the special Reserve component enlistment program provided by section 262, Armed Forces Reserve Act of 1952, as added by section 2(1), Reserve Forces Act of 1955. It is this authority upon which the Department of Defense has established its 6 months' trainee program for individuals between the ages of 17 to 18½. Under present law the authority for this program will expire on August 1, 1959. The Department of Defense has indicated that extension of this authority is considered essential to the maintenance of the strengths and mobilization readiness of the Reserve components.

This amendment to the Armed Forces Reserve Act of 1952 was part of the Reserve Forces Act of 1955, which act had as its primary purpose the development of an efficient and well-trained Ready Reserve Force. Therefore, the authority provided in section 262 of the Armed Forces Reserve Act was not an independently conceived program but an integral part of the effort made by Congress in 1955 to overhaul the Reserve structure with a view toward providing the machinery by which our Reserve Forces could be so organized and trained that in the event of war they would be mobilized quickly and be capable of efficiently augmenting the Active Forces in defending our country.

Since the implementation of section 262 in 1955 nearly 100,000 physically fit and qualified young men have taken advantage of the opportunity offered by this program to satisfy their military obligation to this country.

Extension of this authority will parallel extension of the Universal Military Training and Service Act and assures a continued flow of well-trained young men into the Ready Reserve components of our Armed Forces.

I urge the adoption of this resolution.

Mr. BROWN of Ohio. Mr. Speaker, the minority members of the Rules Committee supported this rule. I know of no opposition on this side to either the rule or the bill.

I yield back the balance of my time.

Mr. DELANEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

USE OF CITRUS RED NO. 2 FOR COLORING ORANGES

Mr. HARRIS. Mr. Speaker, I call up the bill (S. 79) to amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of citrus red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and

Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances, and ask unanimous consent that it may be considered in the House as in the Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the second proviso of section 402(c) of the Federal Food, Drug, and Cosmetic Act is amended by striking out "March 1, 1959," and inserting in lieu thereof "May 1, 1959,".

(b) The third proviso of section 402(c) of such Act is amended to read as follows: "And provided further, That, without regard to the requirements of sections 406(b) and 701(e), the Secretary shall promptly establish, and may from time to time amend, regulations (1) prescribing the conditions (including quantitative tolerance limitations) under which the coal-tar color known as Citrus Red No. 2 (more particularly to be defined in such regulations) may be safely used in coloring the skins of oranges which are not intended or used for processing (or, if so used, are oranges designated in the trade as 'packinghouse elimination'), and which meet minimum maturity standards established by or under the laws of the States in which the oranges are grown, (2) providing for separately listing such color solely for such use on such oranges, and (3) providing for the certification of batches of such color, with or without harmless diluents, for each restricted use; and such oranges, if colored prior to September 1, 1961, and to the enactment by the Congress (subsequent to the date of enactment of this proviso) of general legislation for the listing and certification of food color additives under safe tolerances, in conformity with this proviso and such regulations, with Citrus Red No. 2 from a batch certified in accordance with such regulations, shall not be deemed to be adulterated within the meaning of this paragraph."

Mr. HARRIS (interrupting the reading). Mr. Speaker, I ask unanimous consent that the bill be considered as read and printed in the Record at this point.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HARRIS. Mr. Speaker, the purpose of the bill which was passed unanimously by the Senate and reported favorably and unanimously without amendment by the Committee on Interstate and Foreign Commerce is to amend the Federal Food, Drug, and Cosmetic Act to permit the artificial coloring of the skins of oranges with a color known as citrus red No. 2.

Mr. HALEY, our esteemed colleague from Florida, introduced a bill identical with S. 79. Mr. HALEY testified before our committee on this legislation and he made his presentation with the clarity and persuasiveness which is so characteristic of the gentleman.

The practice of using artificial color to color the skins of fully mature, sound

oranges has prevailed in Florida and Texas for many years. Such coloring is necessary because fully mature fruit from these areas, in many instances, may be greenish and nonuniform in color.

Formerly, the coloring material employed was FDC red No. 32. In 1955, the Food and Drug Administration developed evidence that red No. 32 was not harmless, and because of these findings the Food and Drug Administration caused the color to be removed from the list of colors certifiable for the use in foods. This removal had the effect of prohibiting its use for the coloring of oranges.

In the 85th Congress legislation was passed—Public Law 672—which provided for the temporary continuation of certification of red No. 32 solely for the purpose of coloring skins of oranges. The Food and Drug Administration found that this practice would involve no known damage to the public health.

The legislation expressly provided for an expiration date of February 28, 1959, or sooner, if a harmless substitute was developed. Citrus red No. 2, which was the substitute developed, has a toxicity level significantly lower than FDC red No. 32.

The bill, S. 79, provides authorization for the listing and certification, under safe tolerances, of citrus red No. 2 solely for the use in coloring mature oranges. The bill provides that each batch of such color employed in the coloring of oranges shall be certified by the Department of Health, Education, and Welfare. Since it will require a period of approximately 60 days for the color citrus red No. 2 to be manufactured, certified, and available to orange packers, the bill further provides that the effective date for the termination of Public Law 672—which authorizes the use of FDC red No. 32—shall be April 30, 1959, instead of February 28, 1959.

Testimony was received by the committee from the Food and Drug Administration that the use of these colors will in nowise be detrimental to the public health.

The legislation is temporary legislation and will become inoperative on August 31, 1961, or before that time if general legislation affecting coloring materials for food is enacted by the Congress. The Food and Drug Administration expects to submit a general bill to the Congress in the near future. It is then the intention of the committee to give consideration to these general amendments to the Federal Food, Drug and Cosmetic Act since the need for such legislation is apparent to the committee.

Mr. Speaker, I ask unanimous consent to insert in the RECORD as part of my remarks a letter from John L. Harvey, deputy commissioner, dated February 26, 1959, and one from Mr. Harvey dated March 3, 1959, together with a summary of toxicity studies on citrus red No. 2.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

(The matter referred to follows:)

FEBRUARY 26, 1959.

HON. JAMES J. DELANEY,
House of Representatives,
Washington, D.C.

DEAR MR. DELANEY: In accordance with your request by telephone I may say the Department has indicated no objection to the passage of S. 79 as passed by the Senate and I so testified before the full Senate committee and the Committee on Interstate and Foreign Commerce in the House.

This bill would continue a provision making available a coal-tar color for application to the skin of oranges but would require a limitation or tolerance for the color to be imposed and restrict the color to this use only. Each orange would be marked "Color Added" as has been heretofore required where oranges are artificially colored. Also, in accordance with the restrictions of long standing, color is applied only to fully mature oranges which fail to color naturally.

This temporary legislation is in effect a substitution of the color citrus red No. 2 for FD&C red No. 32 with the added safeguard of a tolerance limitation. The citrus red No. 2 represents significant advantage over red 32, both because it is inherently much less toxic by level of feeding and because it requires only about one-fifth as much of the citrus red No. 2 to effectively color oranges. The bill is not inconsistent with the provisions of the Food, Drug, and Cosmetic Act generally, and as you have noted it is actually designed to be merged in a general color bill which we hope will be passed in the Congress this session.

The expiration date of existing legislation on the red 32 color is February 28—hence the urgent desire on the part of proponents to pass this bill on a consent calendar. If there is further information we can supply, please call me.

Sincerely yours,

JOHN L. HARVEY,
Deputy Commissioner.

MARCH 3, 1959.

HON. JAMES J. DELANEY,
House of Representatives,
Washington, D.C.

DEAR MR. DELANEY: Further reference is made to S. 79, as amended and passed by the Senate and as favorably reported by the House Committee on Interstate and Foreign Commerce. We are satisfied that the provisions of the bill are such as to fully safeguard the public health. The requirements for certification of each batch of the color and the application of a tolerance are practicable and workable provisions.

The Department will shortly submit a bill generally applicable to the use of colors in foods, drugs, and cosmetics, which will embody the same principles of insuring safety contained in S. 79. These principles have been adopted after very thorough study in an effort to devise the most satisfactory means of dealing with the use of colors so as to insure that they are safe under the conditions of use and to always provide a wide margin of safety.

Considering the present emergency situation which prohibits the coloring of oranges after February 28, 1959, and the expectation that general legislation on colors will provide for the coloring of oranges, we believe that S. 79 should be passed.

Sincerely yours,

JOHN L. HARVEY,
Deputy Commissioner.

SUMMARY OF TOXICITY STUDIES ON CITRUS RED No. 2; 2 (1-[2, 5-DIMETHOXYPHENYL]AZO)-2-NAPHTHOL

I. Chronic toxicity studies on rats, using pharmacologically accepted procedures, showed that the feeding of 500 parts per

million of the dye in the diet for 2 years produced no effect. One thousand parts per million produced only suggestive (questionable) effect. Higher levels produced effect.

II. Chronic toxicity studies on dogs, using pharmacologically accepted procedures, showed that the feeding of about 2,000 parts per million of the dye in the diet for 76 weeks produced no effect. About 8,000 parts per million in the diet for 2 years produced effect.

III. Subcutaneous injection studies and metabolism studies gave no basis for questioning the safety of lifetime ingestion of small amounts of citrus red No. 2.

IV. There was no indication in any of the experiments that the dye causes cancer.

V. Conclusions:

The dye did not produce any adverse effect when fed to dogs at 2,000 parts per million for 76 weeks, or when fed to rats at 500 parts per million for their lifetime. There was no indication that the dye is carcinogenic.

The level proposed for use of the dye on oranges—1 to 1.5 parts per million—would give the following safety factors: (a) 300- to 500-fold based on rat experiments; (b) 1,300- to 2,000-fold based on dog experiments.

(A 100-fold safety factor would be regarded by competent pharmacologists as adequate where results such as those obtained here are obtained.)

This shows that citrus red No. 2 can be used on oranges at a level of 1 to 1.5 parts per million without hazard to man. Juice or peel from treated oranges, or the whole oranges, would be safe.

Mr. TEAGUE of California. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from California.

Mr. TEAGUE of California. Mr. Speaker, I have no objection to this bill and I do not know of anyone from California who does, but I would like to point out for the benefit of my friends here in the House that my colleagues from Arizona and California would like to make the point that we in California and Arizona do not find it necessary to use coloring on the oranges grown in those States.

Mr. HOLIFIELD. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Speaker, unfortunately the gentleman from California has expressed in different words my own thoughts. My question was going to be: Would those oranges from Florida and Texas have that natural result that the good sunshine gives them in California and therefore it makes California oranges attractive to the American people?

Mr. HARRIS. I would not want to undertake to make a comparison of oranges from Florida or Texas that are colored with the oranges from the gentleman's State.

Mr. HOLIFIELD. I may say all of my colleagues from California are sympathetic with the plight of the orange growers in Texas and Florida, and we have no desire to stand in the way of helping them in any manner we can.

Mr. HARRIS. The point that the gentleman has so well made was made to our committee by another colleague of ours from California.

Mr. RHODES of Arizona. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Arizona.

Mr. RHODES of Arizona. I want to add my voice to those who have already spoken and say that we do not begrudge this gift to the gentlemen from Florida and Texas. We know full well that the outside of the fruit might look the same as ours, but inside will not compare with ours in any way and there is nothing they can do about it, so we are for this bill.

Mr. HARRIS. May I make this other point seriously, Mr. Speaker, for the information of the House. It is necessary that this temporary legislation be passed because they are now in the harvesting season in Florida. Already some of these plants are being closed down, and within a very few days some 6,000 people will be out of jobs and the American people will be deprived of the kind of oranges they have been accustomed to receiving.

Mr. WIER. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Minnesota.

Mr. WIER. Your very report would leave the impression, at least with me, that this stopgap legislation is not yet safe. We are preparing a safe one, it is said. Anyway, I want to say that I am opposed to it. I am opposed to the artificial coloring of foodstuffs that the American people eat.

Mr. HARRIS. The gentleman has a right to express his views. I did not mean to leave the impression that this was in any way unsafe.

Mr. WIER. The gentleman said this is stopgap legislation and until they perfect the formula it might be unsafe.

Mr. HARRIS. No; not this formula. I referred to the overall, broad subject.

Mr. WIER. Are we going to have this on all fruit?

Mr. HARRIS. This only affects oranges.

Mr. WIER. Well, I am still against it.

The SPEAKER. The time of the gentleman from Arkansas has expired.

(Mr. DELANEY asked and was given permission to revise and extend his remarks.)

Mr. DELANEY. Mr. Speaker, I move to strike out the last word.

Mr. Speaker, I cannot in good conscience support S. 79.

Although tests show that citrus red No. 2 is much less toxic than FDC red 32, which it is designed to replace, it is, nevertheless, toxic. If it were not toxic, the citrus industry would not feel impelled to ask for this legislation.

As you know, the Food, Drug, and Cosmetic Act bars the use of any coal tar dye in food unless it is harmless. Unfortunately, the burden of proof is on the Government and the Food and Drug Administration does not have the facilities to test all of the coal tar dyes now in use. In fact, it has been stated that it would take them 20 years to complete the job, and, meanwhile, the public continues to consume them in food.

However, a number of the dyes that FDA has been able to test have been found toxic, and these have been de-

listed. Only last month, final action was taken to delist four of them—FDC yellow 1, 2, 3, and 4. Just this week I have learned that tests have revealed that yellow 3 and 4, AB and OB, contain an element which is known to induce cancer in humans. I understand that these dyes have been used in margarine and certain baked goods. Previous to last month's action, FDA had delisted other dyes—among them FDC red 32.

The passage of S. 79 would be only a first step to weaken our protection against harmful coal tar dyes. I say that the public needs more protection—not less.

Coal tar dyes are in a special category, and scientists have been suspicious of them for many years. That is why the Congress enacted special provisions relative to them in the Food, Drug, and Cosmetic Act.

When a new coal tar dye is proposed for use, I believe it is time to stop, look, and listen. That is why I stopped, looked, and listened when citrus red No. 2 came along.

Is this dye harmless at the level of use suggested? Well, I have been able to discover that it belongs to a chemical family, two members of which have been found to induce cancer when implanted in the bladders of mice. The first of these compounds induced cancer in 25 percent of the mice tested—the second, in 37.5 percent of the mice. These tests were reported in the British Journal of Cancer, June 1958, volume 12, No. 2, in a paper by D. B. Clayson, J. W. Jull, and G. M. Bonser. I understand that citrus red No. 2 is related, chemically, to the 2 compounds reviewed in this paper.

I do not claim that citrus red No. 2 can cause cancer. A summary of the toxicity studies on the color, which was submitted to me by FDA, states that there was no indication in any of the experiments that the dye causes cancer. However, the tests were feeding tests. Cautious cancer researchers do not accept feeding tests alone as conclusive.

In any event, this bill means taking a calculated risk with the public health. In the case of coal tar dyes, I hold that we are not justified in taking a calculated risk.

Coal tar dyes serve no useful purpose. They do not add any nutritive value to oranges. They do not make oranges any more delicious. Their only use is to add to eye appeal.

If the citrus industry would spend as much money educating consumers to accept undyed oranges as it spends in dyeing them, the public would not be subjected to any risk and, in the long run, the industry would save money and trouble.

Mr. Speaker, I see no good reason for passing this bill, and I see many reasons for defeating it.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. DELANEY. I yield.

Mr. HARRIS. The gentleman did have a letter from the Food and Drug Administration on the subject, did he not?

Mr. DELANEY. Yes; I did.

Mr. HARRIS. That letter did advise the gentleman that this was a safe coloring?

Mr. DELANEY. May I say that I had to write to the Food and Drug Administration and consult with them on three different occasions. Finally, we got a letter that said that the tests showed 100 degrees of safety. They found it was safe, in their opinion; that is, the opinion of the Food and Drug Administration. While they did not sponsor the bill, they did not object to it.

LONG-RANGE SIGNIFICANCE OF THIS LEGISLATION

Mrs. SULLIVAN. Mr. Speaker, I rise in opposition to the pro forma amendment.

I have had, and still have, many reservations about the desirability of this legislation. I wish it were not necessary for us to consider it. I will be sorry to see it become law. Yet I have to acknowledge that every question I have raised to responsible authorities about the possible dangers inherent in the bill has been answered straightforwardly and persuasively.

On the basis of existing scientific knowledge it appears clear that there would be no danger to the consumer in eating oranges colored by citrus red No. 2, even to children sucking an orange through a hole in the skin.

On the other hand, I do not want to let this bill go through the House without raising some points about the long-range significance of this bill's enactment, with the hope that some better method can be devised by our food industry for promoting sales of its varied products than continuously using more and more camouflage to fool the consumer, particularly if the camouflage consists of chemical materials definitely known to be harmful under certain circumstances.

SEARCH FOR "HARMLESS" COLOR WAS FRUITLESS

Mr. Speaker, this is not the first bill brought before us under so-called emergency circumstances to legislate the citrus industry of Florida and Texas out of a difficult situation involving the coloring of their oranges. Several years ago, when it first became known that the coal-tar color then being used on oranges—and which will still be used for a little while under this bill—when it became known that this coal-tar color designated food, drug, and cosmetic red 32 was not in fact harmless, Congress passed temporary legislation to permit the industry to continue using the color until February 28, 1959.

Congress agreed to that in the expectation that—in the assurance that—a harmless substitute color could be developed in the interval.

The interval has expired, but no suitable and practical harmless color has been discovered to take the place of the old food, drug, and cosmetic red 32 in coloring oranges. The effort was certainly made. But it is clear that coal-tar derivatives are no longer providing a reservoir of new artificial colors which can qualify under the Food, Drug, and Cosmetic Act as being harmless.

CITRUS RED NO. 2 NOT HARMLESS, BUT IS LESS TOXIC

Instead, Mr. Speaker, the chemical industry has developed a synthetic color known as citrus red No. 2 as a substitute for the old food, drug, and cosmetic red 32 in coloring oranges. Citrus red No. 2 is not harmless under the terms of the Food, Drug, and Cosmetic Act. But it is said to be substantially less toxic than the old FDC red 32. The Food and Drug Administration is convinced that in the manner in which this color would be used for coloring oranges, and in the quantities which FDA would permit to be used in coloring oranges under the authority of this legislation, citrus red No. 2 would be perfectly safe from the consumer standpoint.

Of course, Mr. Speaker, I can hardly claim to know more, or anywhere near as much, about this as the FDA, so I am certainly not going to challenge their scientific determination as to the relative safety of using this material on oranges, subject to close supervision and control.

But it is worth noting that what we are authorizing is not the use of a harmless material, but of one which is less harmful, less toxic, than the chemical which has long been used for this purpose.

S. 79 TEMPORARY PENDING PASSAGE OF OVERALL COLOR LEGISLATION

As I said, Mr. Speaker, I would much prefer not to see legislation of this kind enacted. I would prefer to see some way found to eliminate the alleged economic necessity for the artificial coloring of foodstuffs with chemicals about whose safety there is even remote doubt and suspicion.

The food additives bill which we enacted last year after many years of effort was a big step toward the solution of a very serious problem involving the use in foodstuffs of hundreds of other chemicals of doubtful safety but the food additives bill did not apply to this specialized field of coal tar derivatives because the coal tar derivatives have been treated for years under our laws with deep suspicion.

This bill is the first step in a process to change that basic attitude toward the coal tar colors. It is a temporary piece of stopgap legislation intended to remain in effect only until Congress enacts overall legislation in the field of artificial coloring of foods, or for no more than 2 years at the outside.

The necessity for such overall legislation, or at least the pressure for it, arises out of the fact that the Food and Drug Administration is being caught in a squeeze between food industry demands, on the one hand, for more and more certified colors to use in or on foods, and the scientific truth, on the other hand, that fewer colors, old or new, are able to pass the test of harmlessness required under the Food, Drug, and Cosmetic Act of 1938.

CONSUMER BLAMED FOR INCREASE IN USE OF ARTIFICIAL COLORS

Presumably it is the public which demands this coloring material in food. If that is so I would say that the food

industry makes little effort to talk the consumer out of this so-called fetish for fancy camouflage of the foods we buy. Rather, I would say the food industry deliberately promotes, provokes, and fools the consuming public into buying more and more foods unnecessarily colored with artificial and potentially dangerous chemical substances. I use the word "unnecessary" about this coloring from the standpoint of nutritional value. The coloring is put in only to make the product more attractive.

For instance, we have official word from the Department of Health, Education, and Welfare that synthetic colors, including some of now very doubtful safety are now being used in or on such a wide variety of commodities as butter, margarine, sausage casings, cakes, cookies, pies, bread, processed cheese, spreads, canned and frozen vegetables, confectionary, ice cream, gelatin des-sers, puddings, and many, many other items.

The significant thing about this increasing use of coloring matter on or in food is that the old colors long in use and always thought to be completely safe are now being found to be less than completely safe, definitely harmful under certain circumstances, and thus no longer subject to certification and approval under the Food and Drug Act.

So once we enact this law to permit oranges to be colored by a material which is not harmless under that act, we are going to be faced with the necessity of allowing other doubtful colors to be used under similar safeguards.

SAFE TOLERANCES DON'T ALWAYS STAY SAFE

But who is to say that we have enough scientific knowledge to guarantee that the safe tolerances which are now to be set will still be found to be safe as our testing techniques improve? That is not an academic question. We know now that the old Food, Drug, and Cosmetic red No. 32 used for so many years on oranges is more toxic than we thought. It can no longer be used in or on food—it has been redesignated as external red 32 for use only on drugs or cosmetics used externally, although for the next few months it will still be used on oranges, under this bill.

I am reminded, Mr. Speaker, of the announcement made a day or two ago by a committee of experts reporting to the Public Health Service on so-called safe limits of radiation. Just a few years ago, safe tolerances were set for atomic workers at 100 units a year. Later study has proved this was completely unrealistic—the so-called safe limit for atomic workers is now only 5 units a year.

The committee of experts now wonders if this is much too high. The safe level for the general public is set at one-half unit per year. And this may prove to be too high a constant.

The same is true with these coal-tar colors. We know they are dangerous—potential killers. We know that in using them in food we are taking a chance. We are assured the level permitted under this bill for use on oranges will be a safe one, but how do we know further

research may prove there is no such thing as a safe level of citrus red No. 2?

IS THIS BILL AN ECONOMIC NECESSITY?

Mr. Speaker, I for one am not at all convinced that passage of this legislation now before us is an economic necessity for the survival of the Florida and Texas citrus industries. If that is the case, then the firms involved in that industry—the industry as a whole—have only themselves to blame. They tell us people will not buy their oranges in competition with the naturally colored oranges of California unless the Florida and Texas oranges can be tinted to what is regarded as a natural orange color.

Everyone knows that Florida and Texas oranges are juicier. Why cannot the industry spend some of the money it devotes to coloring oranges in order to explain to the public that the uncolored, natural orange is not only just as good in taste and flavor and everything else but contains on its skin no doubtful chemicals?

It seems to me the consumer would prefer the natural orange to an orange treated with even minute quantities of a chemical which can, in sufficient quantities, cause serious harm. Yet as far as I know the citrus growers of Florida and Texas have made no effort at all to popularize the uncolored oranges. Instead, they take the adamant position that they must color oranges with coal-tar derivatives because the public insists on it.

What the public does not know may, in this instance, be hurting it.

QUESTIONS RAISED ON CITRUS RED NO. 2

I asked the Secretary of Health, Education, and Welfare for a full report on some questions which had occurred to me about this legislation and I have received an excellent and, I will admit, reassuring reply from the Food and Drug Administration. I am placing that exchange of correspondence in the RECORD at the conclusion of my remarks. But I call attention now to these unpleasant facts, which I do not think appear in the hearings of the committee or in the report on this bill. I quote Mr. John L. Harvey, Deputy Commissioner of the Food and Drug Administration, in reply to my question asking at what point these coloring materials become toxic:

The acute effect in toxic doses of red 32—

Mr. Harvey wrote—

is vomiting and diarrhea. Among the chronic effects are growth retardation and anemia. In the rats studied there was liver damage at autopsy. In the case of citrus red No. 2 excessive dosages produce damage to the circulatory system and cause blood seepage with swelling or edema. There was also harm to the liver in the test animals. The safe level for the citrus red No. 2 in the test animals is 500 parts per million and the amount that would be needed in coloring oranges is from 1 to 1½ parts per million. The toxic level of citrus red No. 2 begins at about 1,000 parts per million. Signs become more marked as the quantity fed is increased significantly above this. In the studies on red 32 which led to its delisting, some effects were noted at levels of 100 parts per million in the test animals. The amount of red 32 used in the coloring of oranges was found to be 3 to 5 parts per million.

In other words, Mr. Speaker, the amounts to be used in coloring oranges are infinitesimal compared to the quantities necessary to cause harm. That is the only basis under which we could possibly permit the use of any of these coal-tar derivatives to be used on the skins of oranges which children like to put in their mouth. But I hate to see even such a tiny amount of a poisonous or harmful substance used in or on food, when it is not necessary.

CONSUMER WANTS FACTS

What is the answer, then, to the problem? The citrus industry affected says it absolutely must have the ability to disguise the natural color of its product. Otherwise, it says, people would not buy it.

On behalf of the housewives of our country, I deny any such broad statement as that. Our housewives are not morons—they must be pretty intelligent individuals to buy and shop and budget and maintain a home and keep a family today under present cruelly high prices. They are as a group intensively interested in everything about their homes—and anxious to know more about nutrition and diet and comparative values. Anyone who thinks differently just has not been in the stores watching women shop. I would not say men are less careful shoppers, but I might point out that the supermarkets love to see the husbands come in to do the shopping—and for the benefit of the husbands, incidentally, the stores have a wide variety of impulse-buying luxury items displayed just at eye height on the shelves where the men find it almost impossible to resist buying.

I do not say this in any battle of the sexes over which group constitutes the best shoppers. But I do want to emphasize that women read up on the food values, watch the prices, and look for nutritional items. They are intelligent shoppers.

WHY NOT EDUCATE CONSUMERS?

Certainly our great food industry—the biggest users of advertising in the whole world—could market uncolored oranges very successfully if they would take the time and effort to help educate the public to the advantages of uncolored oranges.

When the citrus growers were before the Supreme Court last year on this question of coloring oranges with coal tar colors no longer considered harmless, I understand Justice Douglas asked why they did not spend some effort to try to market the uncolored oranges so that it would no longer be economically necessary to tint the oranges. He was told the industry had made such an attempt but it did not work. His comment was a good one. He said something to this effect: that the industry was much more willing to spend time and money to litigate, rather than to educate on this issue. The industry lost the litigation, and now it is in here with a plea for us to legislate it out of a difficult situation. Still, as I see it, there is virtually no in-

clination on the part of the growers to educate the public—the housewife.

DEPARTMENT OF AGRICULTURE SHOULD HELP

I wonder, Mr. Speaker, why our Department of Agriculture, which spends many millions both in research and in educational work to promote purchase by consumers of good foods in ample supply, cannot devote some of its time and effort to promoting the purchase of uncolored oranges. I for one would support whatever appropriation was necessary to enable the Department to explain to housewives that the coloring material in Florida and Texas oranges is unnecessary and, in fact, may some day turn out to have been more harmful than we thought.

It is worth the effort, I think, to guide the consumer to buy the natural foods in preference to those which contain unnecessary colors or other ingredients which add absolutely nothing to their nutritional value or taste or anything else—but which just make them appear to be perhaps more attractive in the store. If the ingredients used are potentially dangerous, even if not harmful in the amount used, I still think we are better off not using these additives.

Once the consumers learn of the dangers involved, I am sure this problem will solve itself. In the meantime, we should tread slowly in the use of potentially dangerous ingredients.

FACTS ON POSSIBLE DANGERS TO CONSUMERS

Mr. Speaker, I mentioned my exchange of correspondence with the Department of Health, Education, and Welfare on this bill, and some of the facts which were brought out in that exchange.

Of great significance to this discussion, too, is the report made by the same Department nearly a year ago on legislation which was introduced in the 85th Congress to set up the kind of safe-tolerance color standards for all food-stuffs which this bill would permit in the case of oranges. As I said, this bill is the temporary expedient until long-range color legislation can be passed. I think many of the things in the Department's report of last year on the long-range color legislation are important to our discussion here today, and so I am including that report also as part of my remarks.

I submit, therefore, in the following order, as part of my remarks, my letter to Secretary Flemming, the reply from the Department of Health, Education, and Welfare containing the memorandum from Mr. Harvey of the Food and Drug Administration, and then, third, the report of June 27, 1958, from Assistant Secretary Elliott L. Richardson on the whole question of color legislation. I have quoted in my talk today from portions of that report.

CONGRESS OF THE UNITED STATES,

HOUSE OF REPRESENTATIVES,

Washington, D.C., February 12, 1959.

Dr. ARTHUR S. FLEMMING,

Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I have just read the Senate debate of Monday on S. 79, the emer-

gency bill to let the Florida and Texas citrus industry use the coal-tar color formerly known as Food, Drug, and Cosmetic red 32 for another 2 months, until May 1, and then to use thereafter the newly developed citrus red 2 until September 1961 for coloring oranges, despite the fact that neither color is harmless under the Food, Drug, and Cosmetic Act.

The fact that the Senate action, both in committee and on the floor, was unanimous, and the further fact that you indicated your Department's approval of the bill as amended along lines you suggested, indicate it will probably be coming before us in the House very shortly, accompanied by a demand for speedy action. I would therefore appreciate your comments on some thoughts which occur to me about this measure.

I read your report on the bill with mixed feelings. The changes you suggested in the legislation were certainly improvements, but I wonder if the emergency is really so serious to the industry as your report seems to indicate. Several stores, I notice, have anticipated the deadline of February 28 for the use of the old red 32 on oranges by putting up signs saying they will handle only uncolored oranges until a safe color is developed. Has anyone made any study to show whether consumers actually refuse to buy uncolored oranges if they are aware of the facts about the coloring material used? Is the industry or the Department of Agriculture making any effort to promote the sale of uncolored oranges in view of the toxicity of any coloring which would be used to camouflage the true color?

While I know that you did not write the Senate committees' report on the bill, undoubtedly the facts therein were based to a large extent on your report and the testimony of your experts. Therefore, I wonder if you could explain the contradiction between the statement in your report, on the one hand, that the Florida and Texas citrus growers face an emergency because of consumer resistance to uncolored oranges, making artificial coloring an economic necessity, and the statement in the committee report on the other hand that the coloring of oranges will not raise their price "inasmuch as the competition between colored and uncolored oranges would have the effect of precluding passing on the cost of coloring to the consumer"?

More important than these questions involving the degree of economic necessity behind this legislation are several others which keep occurring to me: if the old red 32 and the new red 2 are not toxic in the manner in which they are used in coloring oranges, why would the coloring matter not be permitted on oranges which are intended for processing? What percentages of these colors would be toxic, and what percentages are now in use or to be permitted under this legislation? What are the reactions to toxic quantities of either color? Will a child sucking an orange through a hole in the skin—and nearly every child loves to do that—be in danger of ingesting any harmful quantity of this coloring matter?

I would very much appreciate the considered judgment of your experts on these questions. If there is absolutely no danger whatsoever to anyone as a result of the use of these coal-tar colors on oranges, that is one thing; but if there is even a remote but possible danger of harm, then I don't think we should rush into bad legislation under the spur of an imagined economic crisis.

With best wishes, I am,

Sincerely yours,

LEONOR K. (Mrs. JOHN B.) SULLIVAN,
Member of Congress, Third District of Missouri.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, February 23, 1959.

HON. LEONOR K. SULLIVAN,
House of Representatives,
Washington, D.C.

DEAR MRS. SULLIVAN: Replying to your letter of February 12 regarding the newly developed color citrus red No. 2, enclosed herewith is a memorandum which was furnished me by the Food and Drug Administration.

I hope that this covers the questions which you have; and if we can be of further service, please let us know.

Sincerely yours,

ARTHUR S. FLEMMING,
Secretary.

FOOD AND DRUG ADMINISTRATION,
February 21, 1959.

HON. ARTHUR S. FLEMMING,
Secretary, Department of Health,
Education, and Welfare.

JOHN L. HARVEY,
Deputy Commissioner,
Food and Drug Administration.

USE OF CITRUS RED 2 FOR COLORING ORANGES

Very complete toxicity studies were conducted by a manufacturer of citrus red 2 and reported to us for study some months ago. These studies show that while the color can produce harm when fed to test animals in sufficient dosage, the feeding level at which harm is produced is so much greater than the level of use required for coloring oranges that the dye can be employed commercially without any hazard to the consumer. Thus, we are assured that the coloring with citrus red 2, which we would sanction if the proposed legislation were enacted, would not even harm the child who sucks an orange through a hole in the skin.

It has been our policy in administering the pesticide chemicals amendment and will be our policy in administering the food additives amendment to the Food, Drug, and Cosmetic Act not to allow more chemical in food than is reasonably required to accomplish the intended purpose, even though a higher concentration would appear to be safe, based on animal toxicity studies. We believe the same policy should apply with respect to the color for use on oranges. Oranges intended for processing do not need to be colored.

The statement in the Senate committee report that the coloring of oranges will not raise their price, "inasmuch as competition between colored and uncolored oranges would have the effect of precluding passing on the cost of coloring to the consumer," was not based on our testimony. However, we understand that it is based on the fact that California oranges and at least some of the oranges grown in other parts of the country do not acquire a greenish tint after ripening and are not artificially colored. The oranges that may acquire a green tint after ripening and are artificially colored would have to meet the competition from the uncolored oranges.

We do not know of studies conducted to show whether consumers refuse to buy uncolored oranges if they have a choice of uncolored and colored variety. We have been assured, however, by people who are well acquainted with conditions in the citrus-growing regions that consumers do not care to have oranges with green streaks or a slightly green cast at one end if they are able to buy fruit which is uniformly orange in color.

The acute effect in toxic doses of red 32 is vomiting and diarrhea. Among the chronic effects are growth retardation and anemia. In the rats studied there was liver damage at autopsy. In the case of citrus red No. 2, excessive dosages produce damage to the circulatory system and cause blood seepage with

swelling or edema. There was also harm to the liver in the test animals. The safe level for the citrus red No. 2 in the test animals is 500 parts per million, and the amount that would be needed in coloring oranges is from 1 to 1½ parts per million. The toxic level of citrus red No. 2 begins at about 1,000 parts per million. Signs become more marked as the quantity fed is increased significantly above this. In the studies on red 32 which lead to its delisting, some effects were noted at levels of 100 parts per million in the test animals. The amount of red 32 used in the coloring of oranges was found to be 3 to 5 parts per million.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., June 27, 1958.

HON. OREN HARRIS,
Chairman, Committee on Interstate and
Foreign Commerce, House of Repre-
sentatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for a report on H.R. 8945, a bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to prohibit the use in food, drugs, and cosmetics of color additives which have not been determined suitable and harmless for such use.

The bill would, through substantial changes in the Federal Food, Drug, and Cosmetic Act, broaden and make flexible the Secretary's authority relating to the regulation and certification of colors for safe use in or on foods, drugs, and cosmetics.

I. COMPANION OF EXISTING LAW AND THE BILL

1. Scope of coverage: The provisions of existing law relating to the listing and certification of colors are limited to so-called coal-tar colors. The term "coal-tar color," however, has been interpreted to apply, generally, not only to dyes which are coal-tar derivatives, but also to synthetic dyes so related in their chemical structure to a coal-tar constituent as to be capable of derivation therefrom even when not actually so derived. The present bill would embrace all color additives, whether or not synthesized and whether or not capable of derivation from a coal-tar constituent.

2. Restrictions as to use of toxic colors—exemptions from certification requirement: The present law, more fully explained below, simply requires the Secretary to promulgate regulations providing for "the listing" of coal-tar colors harmless and suitable for use in food, or in drugs or cosmetics, and providing for the certification of batches of such colors, with or without harmless diluents (secs. 406(b), 504, 604). A food, drug, or cosmetic (other than a hair dye) is deemed to be adulterated if it bears or contains a coal-tar color other than one from such a certified batch (secs. 402(c), 501(4), 601(e)).

The bill (1) would require separate listing of color additives which are suitable for use in food, drugs, and cosmetics, and which are harmless under the conditions of use specified in such listing; (2) would expressly authorize the Secretary to establish maximum tolerance for the use of any listed color additive in or on different foods, drugs, or cosmetics; and (3) would require not only that the regulations provide for the certification of listed color additives, with or without diluents [but also] for the exemption from certification of color additives the certification of which is not necessary to protect the public health. The above-mentioned provisions of the present act relating to adulteration would be changed to correspond with these changes.

As we interpret the bill, the Secretary would, among other things, not only be authorized to establish tolerances for toxic color additives and to limit the manner of their use—e.g., to external use—in or on

different foods (or drugs or cosmetics), but could permit the use of a color for one food, drug, or cosmetic and exclude it altogether from others. Thus, on the basis of the data before him, the Secretary might decide to list a color additive as harmless for use on the skin of mature oranges—subject to a tolerance if he thinks it necessary—and bar it for any other use.

The bill would not affect the temporary proviso to section 402(c), enacted by Public Law 672, 84th Congress, with respect to the coloring of oranges. It also would leave intact the present provisions of the act which establish the procedures (including hearing and judicial review) for the issuance, amendment, or repeal of regulations on colors, and would, as at present, provide for fees to maintain the listing and certification service (secs. 701(e)-(g); 706).

Under present law, as we read it, we do not have the kind of latitude afforded by this bill. We can, in our view, list a color as harmless for use in food, in drugs, or in cosmetics only where there is no possibility of adverse physiological effect on the consumer from its use, regardless of the concentration or manner, or the number of commodities, or (except as noted below) the kinds of commodities, in which the food, drug, or cosmetic manufacturer might choose to employ the color. Thus, if laboratory tests show a color to have any toxic effect when ingested, we cannot list it as harmless for any use in which there is a possibility that some amount of the color, however minute, might be ingested by the consumer or come into contact with mucous membrane, though we can and do list such a color for a use (particularly in drugs or cosmetics intended only for external application to the body) which involves no possibility of its ingestion and where the color, regardless of amount or concentration used, is harmless for such noninternal use.

Our interpretation, recently challenged in the courts, is now in litigation. In one case, our action in "delisting" three coal-tar colors was sustained by the Court of Appeals for the Second Circuit on the basis of a record which demonstrated the toxicity of these colors. The court—without deciding whether we had basic authority to fix safe tolerances for toxic coal-tar colors—held that we could not be required to do so because (a) on the record, there was no showing of what (if any) level of use of the delisted colors would be harmless, (b) the Secretary should in no event be required by a court to permit the use of toxic colors "without the clearest and most uncompromising evidence that usage at certain levels was absolutely safe" in the light of the consumer's total diet, and (c) the court could see no possibility of limiting the consumer's actual intake of such colors (if permitted) to the consumption level estimated in setting a tolerance (*Certified Color Industry Committee v. Secretary of Health, Education, and Welfare*, 256 F. 2d 866 (1956)).

In another case, however—which involved the same "delisting" action and hearing record, though the petitioners were concerned only with the use of one of the delisted dyes in coloring oranges—the Court of Appeals for the Fifth Circuit decided that we had authority, in the listing and certification of colors, to differentiate between one food and another and one food use and another, and that in the case of food we were required to determine and establish safe tolerances for a particular food use—in this case, coloring of the skins of oranges—where the marketability of the food would otherwise be seriously prejudiced and an important segment of the industry depended upon the marketing of the colored commodity. The holding as to our tolerance authority and duty was bottomed on the view that in such a case the addition of color was "required in the pro-

duction" of the food within the meaning of section 406(a) of the act, which provides that a poisonous or deleterious food additive shall be deemed to be unsafe unless "required in the production" of the food or unavoidable by good manufacturing practice and that, if it is so required or unavoidable, the Secretary shall establish safe tolerances therefor (*Florida Citrus Exchange v. Folsom*, 246 F. 2d 850 (1957)). This case is now pending for review in the Supreme Court.

3. Effective date and grandfather clause: The bill would become effective 6 months after the date of enactment. However, any color additive in use immediately prior to the date of enactment "in accordance with a sanction or approval previously granted" would be deemed to have been listed as suitable for use at the levels of use prevailing when the bill was enacted unless and until such presumed listing is "modified" by the Secretary.

II. COMMENT

We believe that, while the bill should be modified in certain substantive and technical respects, the concepts of the permanent provisions of the bill (as distinguished from the grandfather clause) are basically sound in view of (a) the inflexibility of the present law; (b) the resulting threat to the continued availability of color additives suitable for use in (or on) foods, drugs, and cosmetics in which they have long been used; (c) the fact that scientific procedures are available for determining whether such color additives may be safely used and, if so, in which commodities and under what conditions (including tolerance limitations); and (d) the anomaly of the present law in establishing different ground rules as between so-called coal-tar colors and other additives. It seems desirable to set forth the reasons for these conclusions.

1. The problem: The use of synthetic or other substances in food, drugs, and cosmetics for the purpose of imparting an attractive or distinguishing color to the commodity or, in the case of certain cosmetics, for the purpose of enhancing the appearance of the human body through added color, has long been established and is growing. It is widely accepted, and in many cases consciously demanded, by the consuming public. In the case of food, for example, synthetic color subject to listing and certification under the act is used in (or on) a wide range of commodities, including butter, margarine, oranges, sausage casings, cakes, cookies, pies, bread, processed cheese, spreads, canned and frozen vegetables, confectionery, ice cream, gelatin desserts, puddings, soft drinks, condiments, soups, pickles, prepared dishes, etc. Many housewives also purchase certified color directly and use it in their kitchen in making cakes, icings, desserts, and milk drinks, canning fruit, etc. And before the special tax on colored margarine was repealed, housewives often purchased the color separately and went to the trouble of mixing it with uncolored margarine. The Food and Drug Administration, in the fiscal year 1957, certified 1,581,000 pounds of primary colors listed as suitable and harmless for use in food, a quantity sufficient to color over 1 billion pounds of food. Color has come to be an economic necessity in the marketing of a variety of foods and other commodities covered by the act.

This development has, for more than half a century—i.e., since the enactment of the Pure Food and Drugs Act of 1906—taken place in the shelter of a national policy of allowing the use of synthetic colors, subject only to safeguards considered necessary to protect the public health and prevent deception of consumers. The provisions of the present act (enacted in 1938), prohibiting the use of so-called coal-tar colors other than harmless certified colors, were designed to give legislative sanction to, and to extend to

drugs and cosmetics, a longstanding administrative practice in certifying "harmless" colors for food. While the congressional committees recognized that most so-called coal-tar colors were toxic—which was the reason for singling them out for special control—it was thought—and this is the central premise of these provisions—that an adequate supply of harmless ones, i.e., those demonstrated to be without adverse physiological action, had been developed under this administrative practice and, presumably, would continue to be developed as needed; hence, the stringency of the law as we read it (S. Rept. No. 361, 74th Cong. See also H. Rept. No. 2139, 75th Cong.). However, present-day scientific methods are providing this premise to have been largely illusory.

Within the past few years, new scientific testing methods have shown that some of the coal-tar colors which were permitted in food because earlier testing showed that they were harmless, are capable of causing harm when ingested. Three of these, as above mentioned, have therefore been removed from the list of permitted food colors and have been transferred to the list restricted to uses in externally applied drugs and cosmetics, and proceedings have been commenced to remove four more, including a yellow color commonly used in margarine. These tests, conducted with a view to determining whether the colors are themselves harmless, were not aimed at determining, and hence were not adequate to show, whether we could establish for such colors safe levels of use in or on particular foods, drugs, or cosmetics, and, if so, whether their actual use exceeded those levels. As these modern tests are applied to other colors, it is not unlikely that more and more of them will be found to be toxic and thus will have to be removed from the list.

The process could eventually pose a serious threat to established coloring practices in the food, drug, and cosmetic fields. The threat is already present in the case of food colors. There were only 19 primary coal-tar colors listed for food use when the delisting process began. These have now been reduced to 16 (subject to the use on oranges permitted under court order and under temporary legislation) and would be reduced to 12 if the present proceedings on 4 other colors should end in delisting. While acceptable substitute mixtures of still listed primary colors have been developed for most (not all) food uses in which the three delisted colors were employed, substitution will obviously become more and more difficult as additional primary colors are taken off the list. Nor has it been found technically feasible, in most of these cases, to develop satisfactory non-coal-tar color substitutes.

In this situation, a legislative reexamination of the entire subject of color additives for use in the food, drug, and cosmetic supply of the country is indicated, and we should, in our view, be given new and clear statutory directives as to national policy in this field and as to our duty in carrying out that policy.

The process of judicial interpretation, even if it were finally to establish that we can or must fix tolerances for toxic colors, is not likely to lend itself in this instance to the establishment of the kind of rational scheme—with appropriate controls and with criteria for allocating the aggregate tolerance for a color among different commodities where necessary—which, we believe, would be necessary if coal-tar colors or other color additives were to be admitted to the food, drug, and cosmetic supply under tolerances established by this Department. In this connection, it should also be noted that the decision of the Court of Appeals for the Fifth Circuit in the orange color case is based on a provision of the act relating to food addi-

tives (sec. 406(a)) which has no counterpart in the drug and cosmetic provisions of the act. Moreover, legislation can also relieve, through suitable transitional provisions, the special consumer protection problem caused by the fact at the present rate of testing in the Food and Drug Administration's laboratories it would take many years to complete the task of reexamining the toxicity of all coal-tar colors now on the list. (See the discussion, below, of the grandfather clause of the bill.)

2. Basic approach of bill: The question, then, as we see it, is not so much whether the law should be changed, but, rather, what changes should be made so as, on the one hand, to avoid upsetting needlessly the established coloring practices and, on the other hand, to protect fully the public health and the consumer's interest in honesty and fair dealing.

(a) Scope of coverage: We do not believe that the present distinction between coal tar colors, so-called, and other color additives, whether synthetic or extracted from natural sources, is sound. The assumption that a color additive is necessarily safe when extracted from a plant, or when synthesized with a chemical structure which will not bring it under the term "coal-tar color," whereas a so-called coal tar color is safe only when subjected to special restrictions, is not scientifically tenable. We, therefore, believe that the same ground rules should apply to non-coal-tar color additives for food, drugs, and cosmetics as are applied to coal-tar colors. In this respect the bill is therefore soundly conceived. (Pending enactment of color-additive legislation, food additives which are non-coal-tar colors should, of course, continue to be included in the proposed food additive legislation. See H.R. 6747.)

(b) Tolerances and other specifications of conditions of use of colors: There are few substances which are wholly inert and without any physiological effect, beneficial or harmful, when ingested by men or animal even in normal quantity. To the toxicologist, moreover, harmlessness in the abstract is an unrealistic concept, for it is one of the cardinal principles of toxicology that every substance has a toxic dose, though that does may in actual practice never be reached. This, of course, does not mean that public health protection requires a tolerance limitation for every substance added to food. And it may well be true that certain color additives have such properties, or are suitable and intended for use in such limited circumstances, that it would be entirely safe to list them for use without quantitative restraint, at least for given uses, without establishment of a tolerance. In such cases we should be authorized to admit such colors for use without being required to establish a tolerance, though we would wish to be able to prescribe other conditions of use.

We are satisfied, however, that many color additives, though useful and presumably capable of safe use at given levels, are sufficiently toxic to give no assurance of safety in actual use in the absence of a governing tolerances limitation, since in the case of such colors individual food processors might otherwise, out of ignorance or carelessness, exceed the safe limit. This is true of all the colors we have delisted, or have so far proposed to delist, for food use. And the more toxic the color, the more this is true. As already indicated, we are likewise satisfied that, unless such colors are admitted under safe tolerances, the adequacy of the supply for continuation of established coloring practices will be in jeopardy. In this setting, a committee of recognized scientists, appointed by the National Academy of Sciences to review the coal tar color research program of the Food and Drug Administration, said in 1956: "This committee feels compelled to indicate that certification of a

compound as "harmless and suitable for use" in food, drug, and cosmetics, as required under present law, is unrealistic, unless the level of use is specified." It is not unreasonable to suppose that if Congress, when enacting the present act, had been aware that it was acting on a false premise in assuming that the color sections of the act were sufficient to assure an adequate supply of safe color, it would have permitted the establishment of tolerances under proper safeguards.

We are, therefore, in accord with the proposal that we be permitted to admit colors for use under appropriate tolerance and other prescribed conditions of use in specified foods, drugs, and cosmetics. In this connection, it will be recalled that, in our proposal on protesting of food additives (H.R. 6747), we conceded the desirability of permitting per se toxic additives in the food supply under safe tolerances if they have functional value, instead of limiting such additives to situations where they are required in production or are unavoidable by good manufacturing practice. In using the term "functional value," we did not intend to exclude nondeceptive additives designed for eye appeal, any more than additives intended for gustatory appeal.

(c) Certification of colors—Exemptions: While providing for certification of batches of color, as in the case of existing law, the bill would permit us to grant exemptions where certification is not necessary to protect the public health. The present requirement of certification for coal-tar colors is intended to assure food processors and housewives that the color is free from toxic impurities and otherwise complies with regulations defining the color's identity. We believe that power to exempt colors from the certification requirement is desirable, especially if the coverage of the law is broadened to include all types of color additives.

III. PRINCIPAL RECOMMENDATIONS FOR IMPROVEMENT OF BILL

While, as above shown, we agree in principle with the concepts embodied in the permanent provisions of the bill, we believe that the bill is in need of material revision in a number of respects.

1. Grandfather clause: (a) Listed colors: This provision of the bill (sec. 11(b)), while not altogether clear, would apparently have the effect of exempting from the bill pre-existing uses and levels of use of coal-tar colors which are on the approved list at the time of enactment of the bill, until the Department has been able to do the necessary scientific work to establish tolerances and properly list them. The Food and Drug Administration estimates that completion of its present retesting work on all listed coal-tar colors at the current rate of testing in its laboratories would take about 25 years, even though these tests are not conducted with a view to the establishment of tolerances. Evaluation of the listed food colors alone, on which considerable work has already been done and which are relatively few in number, is expected to take at least 7 to 8 years at the current rate. Tests adequate for determining the precise toxicity of all these colors with a view to the establishment of tolerances would, of course, take as long or longer.

We, therefore, believe that in its present form this provision is not compatible with adequate protection of the public health. Industry, we believe, should at least share the task of retesting, thereby greatly accelerating its completion. We would therefore recommend that the bill be modified so as to require all the colors now on the permitted list to be reexamined and, unless existing data establish their toxicity in a reliable way, retested within a reasonable period of time by industry to establish satisfactory proof of the precise toxic potential of each color, so that the levels at which the colors may safely

be used in food, drugs, or cosmetics can be set. Our food additives bill (H.R. 6747) could furnish a guide for what is a reasonable period.

Moreover, in view of the many uses for which listed colors are now employed, the probable toxicity of many of them, and the long time required for adequate retesting by the Food and Drug Administration at its present rate, enactment of the grandfather clause in its present form would, for many years to come, so devitalize the health protective aspects of the permanent provisions of the bill as to cast serious doubt on the acceptability of the bill as a whole, even if the bill were otherwise modified in accordance with our recommendations. Our suggestion for modification of the grandfather clause should, therefore, be considered as integrally and inseparably related to our position on the bill as a whole.

(b) Other color additives already in use: With respect to color additives which are not coal-tar colors, and which were in commercial use prior to January 1, 1958, we likewise suggest that a reasonable period be allowed for compliance with the bill. Such period, we believe, should follow the one contained in the grandfather clause of H.R. 6747, less any part of the period already elapsed under H.R. 6747 in the event of its prior enactment.

2. Related substances: The bill should be clarified by granting the Department specific authority in listing and setting a tolerance for a color to determine the additive effect of chemically or pharmacologically related substances in the diet.

3. Antideception provision: Added color, especially in the case of food, often lends itself to deception. The bill should expressly forbid the listing of a color for a use which will promote deception of the consumer or violate any provision of the basic act. In the case of new uses, the burden should be on the applicant for listing to satisfy the Secretary that it will not promote deception.

4. Barring violative colors from commerce—Verification of distribution: In order to facilitate enforcement, we believe that the bill should be amended so as to make contraband any color additive which is marketed in interstate commerce for use in food or drugs, or for use in or as a cosmetic, if such color additive is not listed or certified (when required) for such use, or if, in the case of a listed color additive, such additive or its packaging or labeling is not in conformity with requirements of the applicable regulation. It seems desirable to authorize the Secretary expressly to establish such packaging and labeling requirements instead of leaving this to implication. Also, we believe that the requirement, now contained in regulations, that color manufacturers maintain and afford access to records of disposal of listed colors should be expressly provided for by the bill.

5. Allocation of aggregate tolerance to one or more commodities: The bill, as we interpret it, authorizes the Secretary to decide which foods, drugs, or cosmetics may bear a color and in what amounts. A situation may arise whereby the entire safe tolerance of a particular color is used in one type of food. This would exclude its use on all other types of food until the former use has been delisted. Conceivably this could cause considerable difficulty. In the case of drugs and cosmetics, the bill lays down no criteria to guide the Secretary on how to allocate the supply of a color as between one commodity and others for which it is suitable and desired. Even in the case of food, the bill is not clear. It states that the Secretary may provide for different tolerances for the same color additive in or on different foods, "depending upon the relative importance of each color additive to the several foods in which it is used and the relative significance of

those several foods in the human diet." We hope that the hearings will elucidate the intent of this phrase and, perhaps, develop specifications which will be less difficult to apply. Moreover, we hope that, at least in general, the allocation of a limited tolerance as between two or more color uses originating after enactment of the bill, or as between a use antedating the bill and a subsequently proposed use, can be based on a first-come, first-served basis.

6. Other improvements: In order to expedite this report, we are not commenting at this time upon a number of other revisions, of a subordinate or purely technical character, which we believe to be desirable. Such comment will be submitted at a later stage if desired.

IV. COST

Enactment of the bill would require a material expansion of enforcement and educational activity on colors to afford consumer protection equivalent to that available today. While the cost of the listing and certification service would be defrayed out of fees (sec. 10 of the bill) as at present, the cost of enforcement and education activities would necessarily have to come from appropriations out of general revenues. This additional cost is estimated, for the first year, to be about \$825,000.

Under the present certification system, the food and drug inspector need only determine that the colors being used in a food plant are certified, in order to assure himself that the law is being complied with. If known poisonous colors are used with tolerance limitations, he will have to determine not only whether the color is certified, but also the level at which it is employed, a determination which will have to be checked by periodic laboratory examination of samples of foods, drugs, and cosmetics. According to our best estimates, a minimum control at the Federal level under the tolerance-setting procedure would require approximately 75 additional employees (50 inspectors and 25 analysts).

V. CONCLUSION

To summarize: While we cannot support the bill, and especially the grandfather clause, in its present form, we favor the basic principles of the bill and would favor its enactment if modified along the above-suggested lines. We should be glad to submit such technical and other assistance to that end as the committee may desire.

The Bureau of the Budget, while perceiving no objection to the submission of this report, advises that, in the event of enactment of the bill, the level of appropriations to be requested in the President's budget would be determined in the light of broad budgetary and program considerations then prevailing.

Sincerely yours,

ELLIOTT L. RICHARDSON,
Assistant Secretary.

(Mrs. SULLIVAN asked and was given permission to revise and extend her remarks.)

Mr. KING of Utah. Mr. Speaker, I move to strike out the last word.

Mr. Speaker, I raise my voice at this time in unalterable and violent objection to the passage of this bill. I feel that it is one more example of the authorization of corruptive additives to our food, which has become the fad, today, but which I believe is dangerous in the extreme. I believe that if the members of the American public who will be buying these oranges were informed of the fact that these oranges have been artificially colored with coal tar products they would unite en masse here to object to the passage of this bill.

I realize, Mr. Speaker, that this bill calls only for the coating of the outer peel of the orange, and I suppose it will be argued that these materials do not reach the inner orange, and that they are not consumed. That, however, is not true. There are many people today who feel, and I think with reason, and I believe supported by scientific evidence, that the peel of the orange is also a source of great nourishment, and particularly of vitamins. I know of several nutrition textbooks myself which advocate the use of orange peels, grated and simmered over a fire, the liquor or the juice to be poured off and consumed as an aid in the cure of many diseases.

There are many people who consume the orange peels in that manner. Children, of course, suck on oranges. Millions of people make or consume marmalade made with orange peels. So coal tar products are taken into the system. Notwithstanding the fact that it has been reported that there is no evidence that this particular coal tar formula is damaging to the system, the fact still remains that no one on this earth can state absolutely and authoritatively that coal tar products will not cause damage to the human system. We are traveling here in the realm of the unknown. This is a dangerous thing. Now, at a day when we are witnessing 35,000 deaths every year from lung cancer alone, and alarming death rates from cancer in other parts of the body, it would seem to me the better part of wisdom that we eliminate all artificial and synthetic additives until more evidence is available. For that reason, I earnestly urge the Members of this House to reject this bill.

Mr. HALEY. Mr. Speaker, will the gentleman yield?

Mr. KING of Utah. I yield to the gentleman from Florida.

Mr. HALEY. The gentleman said just a moment ago that if people knew these oranges were colored they would not buy them. Every orange is plainly stamped "color added."

Mr. WOLF. Mr. Speaker, will the gentleman yield?

Mr. KING of Utah. I yield to the gentleman from Iowa.

Mr. WOLF. I should like to associate myself with the gentleman's remarks and thank him, and congratulate him on his statement.

Mr. HARRIS. Mr. Speaker, I move to strike out the last word, in order that the RECORD may be perfectly clear that the Food and Drug Administration has thoroughly tested this formula and that it is thoroughly safe.

Mr. PUCINSKI. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield.

Mr. PUCINSKI. I understood earlier from the remarks of the Pure Food and Drug Administration that they had approved an earlier dye only to reverse itself a couple of years later; is that correct?

Mr. HARRIS. No; that is not my understanding that they had approved it. They had investigated it over a period of time and while they did not hold that that particular formula was unsafe,

they held that it was harmless when used to color the outside of oranges. They held that the new color is safer and, therefore, recommend it.

Mr. PUCINSKI. But is there any assurance then that they may not reverse themselves on this again?

Mr. HARRIS. They are coming up with general legislation on color additives which they say in this letter they are going to recommend to the Congress.

Mr. DELANEY. Mr. Speaker, will the gentleman yield in order to clarify one point?

Mr. HARRIS. I yield.

Mr. DELANEY. Under the 1938 Food and Drug Act, no minimum tolerance was created for coal tar dyes. There was an absolute prohibition and zero tolerance is in order. However, the Food and Drug Administration did establish a tolerance which was appealed to the United States Supreme Court and the decision came down last December sustaining the contention that no minimum tolerance would be permitted.

Mr. HARRIS. I appreciate the gentleman's statement clarifying that point.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield.

Mr. VANIK. Mr. Speaker, I want to take this opportunity to express my opposition to this legislation to permit the temporary certification of citrus red No. 2 for coloring oranges. The purpose of this legislation is to make the fruit more attractive and saleable by the use of artificial coloring.

Although the proposed coloring is alleged to be less harmful than a previously authorized coloring, it obviously does not meet the requirements of the Food and Drug Act. This legislation very cleverly shifts to the Congress of the United States any responsibility for error in judgment. It also has the effect of relieving the industry from any legal responsibilities if the coloring substance should subsequently prove to be harmful. The acceptance of this legislation will delay the development of coloring substances which can meet the requirements of the Food and Drug Act.

I believe the American people are capable of learning the use of uncolored oranges—particularly if they are made available at an attractive price. The industry can pass on to the consumer the savings in color and the high cost of color application. The vitamin-starved population should have an opportunity to purchase uncolored, lower-priced fruit.

An orange by any other color would be just as sweet—just as nourishing, and just as marketable.

At the present time and under existing official and unofficial controls, the citrus industry is doing very well. The price of citrus concentrates has continued at high levels invoked by artificial controls in marketing and processing. This artificial manipulation of concentrate pricing is every bit as wrong and as harmful as artificial coloring.

I hope this legislation is defeated.

Mr. WIER. Mr. Speaker, I will refrain, of course, from pursuing a policy

of asking for a rollcall. I know that many have left and I do not want to leave anybody minus their right. I do hope at least, since I am going to oppose this bill, I want the RECORD to show my opposition to it and I do hope that a sufficient number here at least will answer and vote "Yes" or "No."

Mr. ROGERS of Florida. Mr. Speaker, I am in favor of this legislation which has been sponsored by my colleague, Hon. JAMES HALEY, of Florida.

F.D. & C. red No. 32, which is being continued under this bill for a period of 60 days until a new color can be certified, has been in use since before the passage of the Food and Drug Act in 1938. After complete hearings it was certified as harmless and suitable for use in foods in 1939 and more than 300 million boxes of color-added fruit have been shipped from Florida and large numbers from Texas without any complaint or claim of harm. A high percentage of the oranges shipped from both of these States is colored with this color. In one or more years in Texas 100 percent of fruit was so colored.

The new color leaves less residue and has a high level of use and is estimated to have 50 times the safety factor of the other color. This bill is intended to be only temporary legislation pending the adoption of the general color legislation and the Department of Health, Education, and Welfare approved substantially the same feature in the general legislation in its approval of the Curtis bill. The Department favors this bill. As a matter of fact, this bill was carefully worked out by the Department and the industry so as not to disrupt the industry and at the same time protect the public safety.

No one claims that the present color is harmful as used in the coloring of oranges. The claim is that at high levels it would be harmful in other foods.

On February 28, 1955, the Commissioner of Food and Drugs wrote letters to Senator HOLLAND, Senator SMATHERS, and Representative HALEY in which he stated:

There is, however, no evidence that, in the amounts used, and in the manner of use, in the coloring of citrus fruit, the product so colored is not safe for human consumption.

These letters were under the seal of the Department. I enclose for your information a copy of the letter to Congressman HALEY.

The Secretary of Health, Education, and Welfare in his report on H.R. 7732, 84th Congress, 1st session, stated that "the evidence so far available does not establish a likelihood of injury to man," and so forth.

Dr. Larrick, the Commissioner of the Food and Drug Administration, testified to substantially the same thing. No one actually claims that it is harmful as used in the coloring of oranges. The circuit court of appeals and even the Supreme Court of the United States so pointed out. The Supreme Court in the case of Fleming against Florida Citrus Exchange, and others, handed down on December 15, 1958, pointed out that the record does not show that it is harmful as used in

the coloring of oranges and "it is conceded by the Secretary that there is no evidence that the level of ingestion of red No. 32 involved in human consumption of color-added oranges is harmful."

Nearly a quarter of a million dollars has been spent in developing a new color as contemplated by the special act of 1956 and this bill would allow the Secretary to certify such color with proper tolerances.

The color is on the outside and is an oil soluble color which does not even penetrate the white or rag of the orange. The tests show that with red No. 32 a person would have to drink 5,000 gallons of juice per day or eat at least 250 oranges, peeling and all, per day to show harm. Of course, the ordinary food products at such levels would be harmful. I have furnished Congressman HALEY with a detailed analysis made by Dr. Gerwe if this should be needed.

WHY THE NEED FOR COLOR?

The orange is one of the very few fruits which has blossoms, small fruit and fully mature fruit on the tree at the same time; in the fall until the cool days come a fully ripe and mature fruit may be green on the outside, when cool weather comes the late variety of orange may have a rich color on the outside and not be fully mature inside. Later in the spring when the chlorophyll—green color—rises in the tree it goes into the leaves and new fruit and likewise goes into the mature and ripe fruit "regreening it," causing it to be green on the outside although it is fully mature and by reason of this it is impossible to sell unless it is colored.

The Department of Agriculture, even when the Food and Drug Administration was within its department, recognized and encouraged the coloring and the Congress has recognized that it is an economic necessity and the Court of Appeals of the Fifth Circuit likewise recognized it. For your convenience I attach excerpts of certain departmental publications.

The necessity is borne out by the fact that for the seasons of 1945-46 through 1956-57, 68.2 percent of all oranges shipped out of the State of Florida used this color and the color-added range varied from season to season and ran from a low of 60 percent to a high of 76.3 percent and in Texas in some years 100 percent.

THE USE OF THIS COLOR DOES NOT RESULT IN DECEIT

Under the laws of Florida fruit cannot be colored for the purpose of concealing defects. This is also true of the Federal statutes. The fruit to be colored must have a higher standard than is required for fruit generally. No immature fruit can be colored. The amount of color added is limited. The law prohibits the use of color beyond the natural varietal color of the fruit.

The words "color added" are stamped upon each and every orange so colored.

Right now is the beginning of the regreening season and Valencia oranges, the late variety, which were a beautiful color a few days ago are beginning to regreen. The passage of this legislation is

urgent. Failure to pass it will result in reducing employment and creating a chaotic market condition. The passage will allow the Congress to consider permanent legislation and allow the use of the color, which has been in use for more than 30 years and which is harmless as used, for 60 more days during the transition period and then allow the use of a new color with 50 times the "no effect" level of the old color for the period set forth herein.

Not all Florida oranges are colored. Those colored are so marked.

Mr. HALEY. Mr. Speaker, S. 79 would permit the listing and certification of a new color, citrus red No. 2, for the coloring of mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare. Thus, the bill would permit the continuation of an established coloring practice which began in the mid-thirties with the use of citrus red No. 32.

On November 10, 1955, the Secretary of Health, Education, and Welfare ordered citrus red No. 32 removed from the certified list, based on tests in 1951 to 1953 which cast doubt on the harmlessness of the color. The tests indicated that when red No. 32 was fed to test animals in substantial amounts, there was evidence of toxicity. The Secretary, therefore, held he had no authority, under present law, to list and certify red No. 32 because it was not found to be completely "harmless." The Department construed the term "harmless" to mean without toxicity, and took the position that so long as there was any evidence of toxicity, regardless of the minute amount of the color used, the Secretary had no authority to certify that color for use. The Secretary's order was upheld by the U.S. Supreme Court on December 15, 1958.

The delisting of red No. 32 created an emergency for the citrus industry in Florida and Texas. Consequently, in 1956, the 84th Congress enacted Public Law 672 to permit the industry to continue for a maximum of 3 years—until March 1, 1959—the use of red No. 32 for coloring oranges. The enactment of this law, Public Law 672, was considered appropriate and necessary since the coloring of oranges was determined to be an economic necessity, and since there was no likelihood of injury to man from the use of red No. 32 on the exterior of oranges at the levels of use involved. Further, there was no evidence that injury to consumers had resulted from the consumption of oranges colored with red No. 32. I might add that citrus red No. 32 has been used for more than 20 years. More than 300 million boxes of color-added fruit have been shipped from Florida and a large amount from Texas without any complaint or claim of harm.

At the time of enactment of Public Law 672, it was understood the industry would conduct necessary scientific study toward the development of a harmless substitute for red No. 32. Pursuant to that understanding, the industry has developed citrus red No. 2 at a cost of approximately \$200,000. The level of toxicity of the new color is one-fifth

that of red No. 32, by the most conservative reports. In addition, the new color has greater tinctorial power than red No. 32. As a matter of fact, only one-fifth as much red No. 2 is required to color oranges as is necessary with red No. 32. Thus, it is easily seen that the new color has at least 25 times the safety factor of the other color. Even so, under present law, the Secretary of Health, Education, and Welfare is not authorized to list and certify red No. 2. Hence, the need for this legislation.

With respect to the new color, I am pleased to point out that in his report on this bill, the Secretary reported that, if authorized, the Department would be able to establish a safe tolerance for the use of citrus red No. 2. The Food and Drug Administration has reported that the provisions of this bill are such as to fully safeguard the public health, and that the requirements for certification of each batch of the color and the application of a tolerance are practicable and workable provisions.

Mr. Speaker, it should be pointed out that Florida and Texas color a large percentage of the fresh oranges shipped. For the seasons of 1945 to 1946 through 1956 to 1957, 68.2 percent of all oranges shipped out of the State of Florida used red No. 32. The color-added oranges varied from season to season, running from a low of 60 percent to a high of 76.3 percent. I understand that coloring of Texas oranges has run as high as 100 percent of the fresh oranges shipped in a season. The fact that such a high percentage of the fresh oranges shipped are colored indicates that for some reason, people do not buy oranges whose color is green, but rather select the orange with the orange color. It is because of this that the coloring of oranges is an economic necessity.

It is a well-known fact that the economy of Florida is largely dependent on its sunshine, its warm climate, its tropical beauty, and its citrus industry. It is because of its wonderful climate that the Florida oranges must be colored artificially in order to have the eye appeal necessary to maintain a high volume of sales. This is due to the fact that in the fall of the year, or until cooler weather, the fully ripe and mature orange may be green on the outside. Cool weather, on the other hand, may cause the late varieties of orange to have a rich orange color on the outside even though it is not fully mature on the inside. Later in the spring, or with warmer weather, green color rises in the tree and into the leaves and oranges, thereby "regreening" the mature and ripe fruit.

I want to point out that under the laws of Florida, the fruit to be colored must have a higher standard than is required of other fruit. Coloring may not be used for the purpose of concealing defects. No immature fruit may be colored under Florida law. Further, under the Federal Food and Drug Act and the regulations promulgated by the Food and Drug Administration, the amount of color that may be used is limited and the words "color added" is required to be stamped on each and

every orange so colored. Therefore, there is absolutely no danger of injury to the public.

Mr. Speaker, Public Law 672, 84th Congress, expired February 28, 1959, and at the present time the citrus industry is not permitted to use any coloring on oranges. We are now at the beginning of the "regreening" season and the late varieties of oranges, which had a beautiful orange color a few days ago, are beginning to regreen. Therefore, this legislation is urgent. Failure to enact this bill will result in reduced employment in Florida and will create a chaotic market condition. I respectfully request approval of this bill.

Mr. METCALF. Mr. Speaker, here is an ideal situation for application of Dr. Flemming's famous formula. You will recall that Dr. Flemming, Secretary of Health, Education, and Welfare, has said that if the States would and could do the job of building schools they would and could build 75,000 classrooms. Of course, the States would have to change their constitutions and revise their basic tax structure, but under Dr. Flemming's formula that is an unimportant matter.

Not only could we have brilliant orange oranges growing in both California and Florida, but we could have red oranges, blue oranges and, for next Tuesday, we could have ripe green oranges. To accomplish this might require a change in the molecular structure of the orange tree and cooperation of the orange itself, but under the Flemming formula those are minor obstacles.

Mr. CRAMER. Mr. Speaker, I strongly urge the Members of the House of Representatives to vote favorably on S. 79, which would permit the temporary listing and certification of citrus red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare.

In 1956 Congress passed a bill to permit the industry to continue for a maximum of 3 years the use of red No. 32 for coloring oranges to allow time for necessary scientific study in the development of a harmless color. The industry then developed red No. 2, a much less toxic dye.

This legislation is needed because the Supreme Court has held that the Secretary has no right to certify for a limited purpose or to grant tolerances. There was no claim anywhere in the record by the Food and Drug Administration or anyone else that the old color was harmful as used in the coloring of oranges, but the Supreme Court case hinged on the use of the word "harmless," and they held that it could not be certified if harmful at high levels and in other uses in food.

This legislation will allow the use of a new color with a very much higher safety factor than FDC red No. 32, although as stated before it was not claimed that this was harmful as used in the coloring of oranges.

The coloring of oranges is not done to deceive as the colored oranges are marked "color added" and only mature oranges meeting a higher degree of maturity than other oranges can be colored.

The need for coloring was brought out in the hearings, because the early orange does not color until the cold nights come and may be fully mature and yet be green on the outside. The later orange may be immature when it has a rich orange color and then as the chlorophyll comes into the leaves in the spring it regreens and the green gets in the orange, so a green-looking orange may be of greater maturity than a rich, ripe-looking one.

In answer to my distinguished colleague from California [Mr. TEAGUE], who commented on coloring of California oranges, I wish to suggest that we in Florida do not have the California smog through which to filter our sunshine, and the gentleman from Arizona [Mr. RHODES], with regard to the oranges from his State, I suggest that while he has the hot sunshine to color the oranges it also has the effect of drying them out to some extent. I also might remind my distinguished colleagues that it is not the hot sunshine that colors the oranges, but rather it is the cooler weather that adds the color. Florida offers the perfect climate for growing juicy, sweet oranges.

The SPEAKER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. FULTON) there were—ayes 61, noes 21.

Mr. FULTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 213, nays 94, not voting 127, as follows:

[Roll No. 14] •

YEAS—213

Abernethy	Brown, Ohio	Gallagher
Adair	Budge	Gary
Albert	Burke, Ky.	Gathings
Alexander	Burke, Mass.	Gavin
Alford	Bush	George
Alger	Byrne, Pa.	Granahan
Anderson,	Carnahan	Grant
Mont.	Chenoweth	Gray
Andrews	Clark	Hagen
Ashmore	Colmer	Haley
Aspinall	Cooley	Hardy
Avery	Cramer	Hargis
Baldwin	Curtin	Harris
Baring	Curtis, Mass.	Harrison
Barr	Dague	Hays
Bass, Tenn.	Davis, Ga.	Healey
Bates	Dent	Hechler
Baumhart	Derwinski	Hess
Beckworth	Devine	Holifield
Becher	Dollinger	Holland
Bennett, Fla.	Dorn, S.C.	Huddleston
Bennett, Mich.	Dowdy	Ikard
Bentley	Downing	Jarman
Berry	Doyle	Jennings
Betts	Durham	Johnson, Calif.
Blitch	Dwyer	Johnson, Colo.
Boggs	Edmondson	Johnson, Wis.
Bolling	Elliott	Jonas
Bonner	Everett	Jones, Ala.
Bow	Fasell	Jones, Mo.
Brewster	Fenton	Kee
Brook	Flood	Keith
Brooks, La.	Flynt	Kilburn
Brooks, Tex.	Forrester	Kilday
Brown, Ga.	Frazier	Kilgore

King, Calif.
Kitchin
Kiuczynski
Landrum
Lankford
Latta
Lennon
McCormack
McCulloch
McFall
McIntire
McMillan
McSweeney
Machrowicz
Mack, Ill.
Mahon
Matthews
May
Meader
Metcalfe
Michel
Miller,
Clement W.
Milliken
Mills
Minshall
Mitchell
Moeller
Montoya
Moore
Moorhead
Morris, N. Mex.
Morris, Okla.
Mumma
Murphy
Murray
Natcher

Nelsen
Norrell
O'Brien, Ill.
O'Hara, Ill.
O'Neill
Oliver
Passman
Patman
Perkins
Pfof
Pillion
Pirnie
Poage
Porter
Preston
Prokop
Quile
Rains
Reece, Tenn.
Rees, Kans.
Reuss
Rhodes, Ariz.
Rivers, Alaska
Rivers, S.C.
Rogers, Colo.
Rogers, Fla.
Rogers, Tex.
Rooney
Roush
Rutherford
Saund
Saylor
Schenck
Selden
Short
Sikes
Sisk

Slack
Smith, Iowa
Smith, Kans.
Smith, Miss.
Spence
Steed
Stratton
Stubblefield
Teague, Calif.
Teague, Tex.
Thompson, La.
Thomson, Wyo.
Thornberry
Toll
Trimble
Tuck
Udall
Ullman
Utt
Van Zandt
Vinson
Wallhauser
Wampler
Watts
Weiss
Whitten
Widnall
Williams
Willis
Wilson
Winstead
Withrow
Wright
Yates
Young
Younger

NAYS—94

Addonizio
Ashley
Barry
Becker
Blatnik
Boland
Bosch
Boyle
Brademas
Breeding
Broomfield
Burdick
Cannon
Cederberg
Chamberlain
Church
Cohelan
Conte
Cook
Corbett
Cunningham
Daddario
Delaney
Denton
Dooley
Dulski
Feighan
Flynn
Foley
Forand
Ford
Fulton

Gialmo
Green, Oreg.
Griffin
Griffiths
Gross
Halpern
Hlestand
Hoffman, Ill.
Holt
Hosmer
Irwin
Jensen
Johansen
Karsten
Karth
Kastenmeier
Kearns
King, Utah
Knox
Langen
Levering
Libonati
Lindsay
Lipscomb
McDonough
Mack, Wash.
Madden
Mailhard
Marshall
Miller,
George P.
Miller, N.Y.

Norblad
O'Hara, Mich.
O'Konski
Ostertag
Pelly
Poff
Powell
Price
Pucinski
Rabaut
Ray
Rhodes, Pa.
Robison
Rodino
Rogers, Mass.
Scherer
Schwengel
Siler
Simpson, Ill.
Smith, Calif.
Springer
Sullivan
Thompson, N.J.
Tollefson
Vanik
Van Pelt
Walter
Westland
Wier
Wolf
Zablocki

NOT VOTING—127

Abbitt
Allen
Andersen,
Minn.
Anfuso
Arends
Auchincloss
Ayres
Bailey
Baker
Bardett
Barrett
Bass, N.H.
Bolton
Bowles
Boykin
Bray
Brown, Mo.
Broyhill
Buckley
Burleson
Byrnes, Wis.
Cahill
Canfield
Carter
Casey
Celler
Chelf
Chiperfield
Coad

Coffin
Collier
Curtis, Mo.
Daniels
Davis, Tenn.
Dawson
Derounian
Diggs
Dingell
Dixon
Donohue
Dorn, N.Y.
Evins
Fallon
Farbstein
Fino
Fisher
Fogarty
Fountain
Frelinghuysen
Friedel
Garmatz
Glenn
Green, Pa.
Gubser
Hall
Halleck
Harmon
Hobert
Hemphill

Henderson
Herlong
Hoeven
Hoffman, Mich.
Hogan
Holtzman
Horan
Hull
Jackson
Johnson, Md.
Judd
Kasem
Kelly
Keogh
Kirwan
Kowalski
Lafore
Laird
Lane
Lesinski
Loser
McDowell
McGinley
McGovern
Macdonald
Magnuson
Martin
Mason
Merrow
Meyer

Monagan	Randall	Smith, Va.
Morgan	Riehlman	Staggers
Morrison	Riley	Taber
Moss	Roberts	Taylor
Moulder	Roosevelt	Teller
Multer	Rostenkowski	Thomas
Nix	St. George	Thompson, Tex.
O'Brien, N.Y.	Santangelo	Wainwright
Osmer	Scott	Weaver
Philbin	Shelley	Wharton
Pilcher	Sheppard	Whitener
Polk	Shipley	Zelenko
Quigley	Simpson, Pa.	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Smith of Virginia with Mr. Martin.
 Mr. Monagan with Mr. Arends.
 Mr. Hébert with Mr. Auchincloss.
 Mr. Morrison with Mr. Allen.
 Mr. Pilcher with Mr. Simpson of Pennsylvania.
 Mr. Lane with Mr. Taber.
 Mr. Bureson with Mr. Merrow.
 Mr. Chelf with Mr. Baker.
 Mr. Evins with Mr. Halleck.
 Mr. Fallon with Mr. Curtis of Missouri.
 Mr. Garmatz with Mr. Dixon.
 Mr. Friedel with Mr. Fino.
 Mr. Nix with Mr. Ayres.
 Mr. Green of Pennsylvania with Mrs. Bolton.
 Mr. Teller with Mr. Broyhill.
 Mr. Quigley with Mr. Canfield.
 Mr. Thompson of Texas with Mrs. St. George.
 Mr. Staggers with Mr. Bass of New Hampshire.
 Mr. Scott with Mr. Osmer.
 Mr. Riley with Mr. Mason.
 Mr. Roberts with Mr. Laird.
 Mr. Hull with Mr. Judd.
 Mr. Kirwan with Mr. Glenn.
 Mr. Sheppard with Mr. Frelinghuysen.
 Mr. Loser with Mr. Derounian.
 Mr. McGinley with Mr. Dorn of New York.
 Mrs. Kelly with Mr. Gubser.
 Mr. Zelenko with Mr. Andersen of Minnesota.
 Mr. Donohue with Mr. Bray.
 Mr. Philbin with Mr. Byrnes of Wisconsin.
 Mr. Fogarty with Mr. Weaver.
 Mr. Fountain with Mr. Taylor.
 Mr. Herlong with Mr. Riehlman.
 Mr. Hemphill with Mr. Chipfield.
 Mr. Roosevelt with Mr. Wainwright.
 Mr. Shelley with Mr. Wharton.
 Mr. Boykin with Mr. Cahill.
 Mr. Santangelo with Mr. Collier.
 Mr. Keogh with Mr. Lafore.
 Mr. Anfuso with Mr. Horan.
 Mr. Allen with Mr. Jackson.
 Mr. Buckley with Mr. Hoffman of Michigan.
 Mr. Multer with Mr. Henderson.
 Mr. Holtzman with Mr. Hoeven.

Mr. REUSS changed his vote from "nay" to "yea."

Mr. RODINO, Mr. BARRY, and Mr. KEARNS changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that all Members may have permission to extend their own remarks in the RECORD on the bill just passed immediately prior to the vote.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

EXTENDING SPECIAL ENLISTMENT PROGRAMS

Mr. RIVERS of South Carolina. Mr. Speaker, I call up the bill (H.R. 3368) to extend the special enlistment programs provided by section 262 of the Armed Forces Reserve Act of 1952, as amended, and ask unanimous consent that it be considered in the House as in the Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina [Mr. RIVERS]?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 262 of the Armed Forces Reserve Act of 1952, as amended (50 U.S.C. 1013), is further amended by deleting the date "August 1, 1959" in the first sentence of section 262(a) and inserting in lieu thereof the date "August 1, 1963".

Mr. RIVERS of South Carolina. Mr. Speaker, I move to strike out the last word.

Mr. Speaker, the bill before the House today extends the special enlistment programs provided by section 262 of the Armed Forces Reserve Act of 1952, as amended, for a period of 4 years, until August 1, 1963. It is this authority upon which the Department of Defense has established its 6 months' training program for individuals between the ages of 17 to 18½. Under present law, the authority for this program among other things, will expire on August 1, 1959. The Department of Defense has indicated that extension of this authority is considered essential to the maintenance of the strengths and mobilization readiness of the Reserve components.

As you will recall, the Congress during the past month has voted an extension of the induction provisions of the Universal Military Training and Service Act until July 1, 1963. The provisions of this proposal would similarly extend those provisions of the Armed Forces Reserve Act which permit the deferment and exemption from draft liability of individuals who agree to perform 6 months of active duty for training with the Armed Forces and thereafter continue to perform satisfactorily in the Reserve Forces.

Now let me refresh your memory on the history of the Armed Forces Reserve Act, as amended.

In 1955 the Congress, in response to a Presidential request, amended the Armed Forces Reserve Act of 1952 to provide the President with the authority to establish Reserve component enlistment programs for young men between the ages of 17 and 18½ and for persons who have critical skills and are engaged in civilian occupations in any critical defense-supporting activity or in any research activity affecting national defense.

This amendment to the Armed Forces Reserve Act of 1952 was part of the Reserve Forces Act of 1955 (69 Stat. 598) which had, as its primary purpose, the development of an efficient and well-trained Ready Reserve force. The authority provided in section 262 of the

Armed Forces Reserve Act was not an independently conceived program but an integral part of the effort made by Congress in 1955 to overhaul the Reserve structure to provide the machinery by which our Reserve forces could be well organized and efficiently trained. In the event of war they could be mobilized quickly and would be capable of effectively augmenting the Active Forces in defense of our country.

Under the authority contained in section 262, the Armed Forces, under such quotas as may be determined by the President—not to exceed 250,000 annually—are authorized until August 1, 1959, to establish special enlistment programs in units of the Ready Reserve for persons who, first, are mentally and physically qualified for service; second, have not been ordered to report for induction; and third, are under 18½ years of age.

This section further prescribes that the enlistment period for this special program must be for 8 years including an initial period of not less than 3 months or more than 6 months of active duty for training, with satisfactory service in the Reserve thereafter. In the case of individuals in attendance at high schools, the requirement of the 3- to 6-month period of active duty for training is deferred until the individual completes high school or reaches 20 years of age. Except for war or national emergency, individuals enlisted under this program and who serve satisfactorily are exempt from induction under the Universal Military Training and Service Act.

Included in section 262 is authority to establish an enlistment program for individuals possessing critical skills who are engaged in civilian occupations in any critical defense-supporting industry or in any research activity affecting national defense. In the case of such individuals the law provides that the program will also require an 8-year enlistment period with an initial period of active duty for training of not less than 3 nor more than 6 months. However, the law prescribes that such individuals may be enlisted without regard to age and even though ordered to report for induction.

On the basis of the statutory authority contained in section 262 of the Armed Forces Reserve Act of 1952, as amended, the President, by Executive order in the summer of 1955, authorized the acceptance of enlistments under this program in units of the Ready Reserve. Subsequently, by Executive order in early January of 1956, the President established the authority for the administration of the special enlistment program designed for individuals possessing critical skills. Both programs, authorized by the statute, were put into operation soon after Congress had acted to permit this development.

The Honorable Hugh M. Milton II, Under Secretary of the Army, in testimony before the Armed Services Committee on February 17, 1959, on the extension of section 262 of the Armed Forces Reserve Act, made the following comment which reflects the importance

AN ACT

To amend the Federal Food, Drug, and Cosmetic Act to permit the temporary listing and certification of Citrus Red No. 2 for coloring mature oranges under tolerances found safe by the Secretary of Health, Education, and Welfare, so as to permit continuance of established coloring practice in the orange industry pending congressional consideration of general legislation for the listing and certification of food color additives under safe tolerances.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the second proviso of section 402(c) of the Federal Food, Drug, and Cosmetic Act is amended by striking out "March 1, 1959," and inserting in lieu thereof "May 1, 1959,".

(b) The third proviso of section 402(c) of such Act is amended to read as follows: "*And provided further, That, without regard to the requirements of sections 406(b) and 701(e), the Secretary shall promptly establish, and may from time to time amend, regulations (1) prescribing the conditions (including quantitative tolerance limitations) under which the coal-tar color known as Citrus Red No. 2 (more particularly to be defined in such regulations) may be safely used in coloring the skins of oranges which are not intended or used for processing (or, if so used, are oranges designated in the trade as 'packing house elimination'), and which meet minimum maturity standards established by or under the laws of the States in which the oranges are grown, (2) providing for separately listing such color solely for such use on such oranges, and (3) providing for the certification of batches of such color, with or without harmless diluents, for such restricted use; and such oranges, if colored prior to September 1, 1961, and to the enactment by the Congress (subsequent to the date of enactment of this proviso) of general legislation for the listing and certification of food color additives under safe tolerances, in conformity with this proviso and such regulations, with Citrus Red No. 2 from a batch certified in accordance with such regulations, shall not be deemed to be adulterated within the meaning of this paragraph.*"

Approved March 17, 1959.

Oranges,
food coloring.
70 Stat. 512.
21 USC 342.

73 Stat. 3.

73 Stat. 4.

21 USC 346,
371.

